REPORT RESUMES

ED 011 697 EA 000 476

SCHOOL BOARD--SCHOOL EMPLOYE NEGOTIATIONS, REPORT OF PRESENTATIONS AT A CONFERENCE ON SCHOOL BOARD-SCHOOL EMPLOYE NEGOTIATIONS (MADISON, DECEMBER 10, 1966).

BY- LINTON, THOMAS AND OTHERS
WISCONSIN ASSN. OF SCHOOL BOARDS, WINNECONNE

PUB DATE JAN 67
EDRS PRICE MF-$0.18 HC-$3.04 76P.

DESCRIPTORS- *BOARDS OF EDUCATION, *COLLECTIVE NEGOTIATION, PERSONNEL POLICY, LABOR LEGISLATION, CONTRACTS, GRIEVANCE PROCEDURES, TEACHER SALARIES, SCHOOL PERSONNEL, MERIT PROGRAMS, *TEACHERS, WISCONSIN EMPLOYMENT RELATIONS BOARD, WINNECONNE

AT A CONFERENCE OF WISCONSIN SCHOOL BOARDS IN DECEMBER 1966, EIGHT MAJOR ASPECTS OF COLLECTIVE BARGAINING BETWEEN SCHOOL BOARDS AND SCHOOL EMPLOYEES WERE CONSIDERED. THEY WERE--(1) PREPARATORY WORK FOR NEGOTIATIONS INCLUDES RECOGNITION OF COLLECTIVE NEGOTIATION IN PUBLIC EDUCATION AND DEVELOPMENT OF THE SCHOOL BOARD'S POSITION, (2) THE NEGOTIATION SESSION INVOLVES THE SCHOOL BOARD IN THE ROLE OF MANAGEMENT, PROBLEMS OF WHO SHOULD DO THE NEGOTIATING, AND TECHNIQUES FOR RESOLVING DEADLOCKS, (3) THE WRITTEN AGREEMENT RAISES PROBLEMS OF FORM, COVERAGE, REPRESENTATION, GRIEVANCE AND ARBITRATION PROCEDURES, CONTRACT DURATION, AND THE SAVING CLAUSE, (4) A RECOMMENDED PROGRAM OF PERSONNEL ADMINISTRATION INCLUDES EMPLOYMENT PROCEDURES, PROVISION FOR INSERVICE IMPROVEMENT, AND COMMENSURATE COMPENSATION, (5) A PREVENTIVE GRIEVANCE PROGRAM INVOLVES DEVELOPMENT OF A COMBINED ORAL AND WRITTEN GRIEVANCE PROCEDURE, (6) AN APPROVED SALARY SCHEDULE IS SUGGESTED, BASED UPON EIGHT ESSENTIALS ADOPTED BY THE NEA, (7) THE EXPANDING SCOPE OF NEGOTIATIONS BETWEEN SCHOOL BOARDS AND TEACHERS INCLUDES ANY PHASE OF EDUCATION AFFECTING THE WORKING LIFE OF THE TEACHER OR THE QUALITY OF THE EDUCATIONAL PROGRAM, AND (8) THE STATE'S MUNICIPAL LABOR LAW IS REVIEWED WITH RESPECT TO BOTH PROFESSIONAL AND NONPROFESSIONAL EMPLOYEES OF THE SCHOOL BOARD. THIS DOCUMENT IS ALSO AVAILABLE FROM THE WISCONSIN ASSOCIATION OF SCHOOL BOARDS, BOX 160, WINNECONNE, WISCONSIN 54986, FOR $2.50. (JK)

School Board – School Employe Negotiations — PREPARATION FOR BARGAINING, NEGOTIATIONS AND ADMINISTRATION OF THE AGREEMENT

ED011697

Conference Sponsored By: WISCONSIN ASSOCIATION OF SCHOOL BOARDS

MAJOR PRESENTATIONS AT THE CONFERENCE ON SCHOOL BOARD - SCHOOL EMPLOYE NEGOTIATIONS, MADISON, DECEMBER 10, 1966. CONFERENCE SPONSORED BY THE WISCONSIN ASSOCIATION OF SCHOOL BOARDS.

Co-consideration of employment matters

Prepared by the
WISCONSIN ASSOCIATION OF
SCHOOL BOARDS
Box 160
WINNECONNE, WISCONSIN 54986
January 1967

U.S. DEPARTMENT OF HEALTH, EDUCATION & WELFARE
OFFICE OF EDUCATION

THIS DOCUMENT HAS BEEN REPRODUCED EXACTLY AS RECEIVED FROM THE PERSON OR ORGANIZATION ORIGINATING IT. POINTS OF VIEW OR OPINIONS STATED DO NOT NECESSARILY REPRESENT OFFICIAL OFFICE OF EDUCATION POSITION OR POLICY.

EA 000 476

School Board-School Employe Negotiations

Report of The Conference Presentations
December 10, 1966 — Madison

Page

PREPARATORY WORK PRIOR TO NEGOTIATIONS
by Thomas Linton ---------- 1

THE NEGOTIATING SESSION
by William R. Young ---------- 8

WRITING THE AGREEMENT
by Ray E. Wachs ---------- 17

DEVELOPING A PERSONNEL ADMINISTRATION PROGRAM
by Dr. Glen Eye ---------- 31

GRIEVANCES
by Henry C. Rule ---------- 39

WAGES & SALARY ADMINISTRATION - DEVELOPMENTS ATTENDANT TO EMPLOYE NEGOTIATIONS
by Wallace L. Zastrow ---------- 44

THE SCOPE OF NEGOTIATIONS
by Arvid Anderson ---------- 60

MUNICIPAL LABOR LAW AS IT AFFECTS SCHOOL BOARDS AND THEIR PROFESSIONAL EMPLOYES
by Morris Slavney ---------- 63

Sponsored And Published by
WISCONSIN ASSOCIATION OF SCHOOL BOARDS
Box 160
Winneconne, Wisconsin 54986
January 1967
Price — $2.50 per copy

PREPARATORY WORK PRIOR TO NEGOTIATIONS

by Thomas A. Linton
Secretary-Business Manager
Board of School Directors
Milwaukee, Wisconsin

The single most important preparation for negotiations is to get in the right frame of mind, to realize:

- That collective bargaining for public employees is indeed the law of the State of Wisconsin
- That the calendar cannot be turned back to some more peaceful time.
- That it is now fruitless to argue about whether negotiation is good or bad - it's here! Our problem is to learn to live with it.

We are here today because, as the current issue of Business Week says, the one-time 97 pound weakling of the labor movement, the public employee union, is moving up into the heavyweight class and flexing its big new muscles. Public employees today form the area of greatest union growth - and unrest:

- Public employee unions registered a 59% increase during the past decade while private industry unions declined 5%.
- Prior to 1965, Wisconsin was the only state with a comprehensive law regulating collective negotiations in public education. Now, eight states have them.
- A recent survey of the 6,000 largest school systems in the country, conducted by the University of Chicago, showed that some form of collective bargaining with teachers organizations was being practiced in 1700 of them.

You may have noted that I have used terms like "collective bargaining" and "professional negotiations" almost interchangeably. "Collective bargaining" is a term long used by the unions while "professional negotiations" is now used by the education associations. Essentially they mean the same thing, with collective bargaining carrying the threat of a strike as an ultimate weapon, and professional negotiations, the use of sanctions as the most drastic action. I personally prefer the term "negotiation" because it connotes a higher level of discussion.

What do your teachers groups want and how can you anticipate their demands?

Your long-range weather radar can forecast local storms by looking at:

- Discussions of objectives made at the annual national meetings of the American Federation of Teachers and the National Education Association.

- Four years ago, at the 1962 Convention of the American Federation of Teachers, Mr. Charles Cogen, then President of the New York Local said that "nothing concerning the operation of schools including curriculum, content, and methodology is immune from the joint decision - making and co-determination of collective bargaining."

- Significant panel presentations at other national conferences and conventions, such as the National School Boards Association, the American Association of School Administrators, the Association of School Business Officials and the special conference held at Stanford this past summer entitled, "School Boards in an Era of Conflict."

- Settlements that have been reached in key districts, and these range in size from New York City (AFT) to Bloomington, Minnesota (NEA).

By the time these matters are being discussed at state and local meetings, the bad weather ia already upon you. However, some of the best help to solve your immediate problems may be obtained from your neighboring colleagues in meetings such as this.

I would also put in a word for reading, not only the national magazines but also the Wisconsin School Board News, the NEA Reporter, the Wisconsin Teacher, to name a few.

Although some persons feel that collective action by teachers will be limited to salaries and only certain aspects of working conditions, I don't share that view.

Where do working conditions end and educational policy begin?

What is class size? Is it a working condition or a matter of educational policy? There are elements in it that have to do with a teacher's working condition in terms of load; but what about the determination of the proper number of children that can be handled for a specific type of subject under particular circumstances?

What about textbook selection? Is this a matter for consulting or for negotiating? I am not optimistic about the future of discussable items for today's discussable items become tomorrow's negotiable items. Teachers, as licensed professionals, feel qualified to handle many things.

Suppose, for the sake of argument, you agree that the choice of textbooks should be negotiated. Would you go so far as to limit the selection to those books published in union shops? This very matter came up in an eastern school district which agreed not to use books printed by the Kingsport Press in Tennessee. Needless to say, the case went to the courts.

Virtually any change in educational policy has implications for conditions of employment. Moneys appropriated for higher salaries, more sick leave, and payment of insurance premiums are not available for audio-visual equipment, library books, or hiring special teachers.

How does the school board develop its position?

Wisconsin school boards, under Chapters 38 and 40, still have the final responsibility for establishing policies for their schools. Preliminary to participating in negotiations, a number of fundamental policy decisions must be made:

1. The time schedule for negotiations.

2. The topics to be considered during negotiations.
   - Chapter 111.70 (2) states that municipal employees shall have the right to confer and negotiate on questions of wages, hours and conditions of employment.

3. Who will do the negotiating for the school board?
   - In the University of Chicago Study, conducted by Wesley A. Wildman, more than 75% of the superintendents were found to have the responsibility for conducting the relationship on the management side. He also found that many boards soon found negotiating too time-consuming and were glad to delegate the chore.

4. What form will the final written agreement take?
   - Chapter 111.70 (4) (i) provides that the final settlement shall be reduced to writing in the form of either a resolution or a contract.

5. Will the negotiating sessions be closed?

Following a determination of fundamental policies the Board and the Administration must turn to the specific problems of the moment - - this leads to my next section:

What data does school management take to the bargaining table?

You must have a clear and accurate picture of your school system:

1. From the budgetary point of view, including:
   - Current tax ceilings and property valuations.
   - State aids, both general and special.
   - Built-in costs of on-going programs.

2. From the personnel point of view, including:
   - Recruiting needs. What will you have to do to the beginning salary or hiring rate to fill your anticipated vacancies. What fringe benefit adjustments will be most attractive to new people.

   - Composition of present staff. How old are your people? How many are married? Do they have dependents? The influx of young men into the teaching force has been at least partially responsible for the increasing militance of the profession. A married woman teacher is more likely to regard her salary as supplemental income.

- Staff placement on salary schedule. How many people are at each step and level? Without this information, you can make some disastrous mistakes in estimating the fiscal impact of salary proposals.

You will also need salary and fringe benefit data comparing your district with others. Some of our most useful tabulations are:

1. Salary schedules for the 25 major cities in the United States (you might wish to compare with Wisconsin cities).
   - Minimum for bachelor's degree.
   - Maximum attainable, with the requirements.
   - Number of days teachers are on duty.
   - Service increments, number and amount.
   - Ratios of **maximum** principals' salaries to maximum teachers' salaries.

2. Bureau of Labor Statistics' latest report on wages and salaries in Milwaukee.

3. Bench mark job rates for five major taxing units in the Milwaukee area for three years.

4. Fringe benefits and other personnel practices for the five taxing units.

All of these data are useful, but they are not self-translating into specific agreements.

- Employee groups will compare their salaries with districts with much higher salaries; management may have a different group for comparison.

- To show a rise in the cost of living, one base year may be taken by the employee groups, another by management.

- I have yet to see a teachers' group that admits that an annual salary increment is a pay raise.

Finally, you will want to price out all demands having a budgetary impact. The Milwaukee School Board has an interesting approach to this matter. The first four steps in our calendar of negotiations will illustrate this:

Step	Time	Activity
1	Prior to May Board meeting	Submission to the Board of collective bargaining proposals concerning pay rates, fringe benefits, and other conditions of employment having budgetary impact.

Step	Time	Activity
2	May Board meeting	Referral of requests to appropriate committees and to Superintendent and Secretary-Business Manager for study and analysis from every pertinent standpoint.
3	Following July Board meeting	Superintendent and Secretary-Business Manager will send written reports to Board Directors, authorized employee organizations and the public giving the results of the study and analyses of the bargaining proposals.
4	Prior to August Board meeting	Joint meeting of the Finance and Building Committees to consider the reports of the Superintendent and Secretary-Business Manager and to give full opportunity for discussion by the public and the authorized employee organizations.

(Other steps follow)

What about closed sessions for negotiations?

Chapter 14.90 Wisconsin Statutes, (Anti-SecrecyLaw) does not prohibit negotiations on wages, hours and working conditions at closed or secret meetings, provided that final action is taken publicly.

- The press, of course, will object for newspapers thrive on reporting controversy - not agreement.

I believe that it is impossible to conduct meaningful negotiations in a public meeting, and I would expand the meaning of public meeting to include the use of tape recorders or stenographic transcripts.

- Many demands are made only for political reasons. Such positions are more easily modified in a small group than before the general public, and so reported in the press.

- Even with a tape recorder, people will talk for the record - making compromise more difficult.

CAUTION: If, in the process of negotiations, the public feels left out and Boards of Education and teachers' organizations make agreements without consideration of the public, continued community support of the educational program is likely to suffer.

Largely because the public considers itself a co-partner in the administration of the schools, there has been a growing public awareness of the importance of the role of the teacher. There has been a willingness to improve teaching conditions and to provide higher salaries. This willingness has not always reached the expectations of the teaching staff but at least it has greatly improved the economic status of teachers in recent years.

What about the district which is faced with formal negotiations for the first time?

There may be some boards and administrators, even in this room, who say, "This couldn't happen to us. It happens to other districts because their personnel methods are not good, but our people love us." Your days are running out!

The first time around is the toughest, and for many reasons:

1. The organization representative, in his campaign for recognition, promised many things - some of which are unrealistic.
2. The initial demands will frequently contain specific grievances, more properly handled through a grievance procedure.
   - The fifty pages of teacher demands now being considered by the Chicago Board of Education appear to contain a tabulation of every smoking room grumble voiced during the past ten years.
3. Competition between the two major teacher organizations increases conflict with the administration.
   - Milwaukee is the largest school system where an NEA affiliate has exclusive bargaining rights, so I speak from a "ground-zero" position.
   - However, even if there is no rival group in your district, the authorized organization may try to negotiate a comprehensive agreement to be used as a propaganda counter in the nationwide NEA-AFT battle.
4. In fairness, I should also add that school management men usually approach their first bargaining sessions with less than complete enthusiasm.

What about budget problems for the city school district?

The primary conflict here is between the budget and the bargaining statutes. Contrary to the beliefs of some employee representatives, the bill creating Chapter 111.70 did not contain a repealer for Chapters 38 and 40.

The Wisconsin Employment Relations Board says, however, that for a municipality to hide behind the shield of budgetary procedures would thwart the operation of collective bargaining and frustrate the legislative intent. Some students of public administration claim that the bargaining process is incompatible with budget deadlines and that different budgetary procedures will have to be developed.

Fiscally dependent districts have a serious problem, for negotiating without knowing how much money will be available is mere shadow-boxing.

- The Baltimore City Schools are now under NEA sanctions because the City Council did not provide sufficient funds to finance the agreement the school board had worked out with the teachers.

Even in fiscally independent districts, there is always a third party to the negotiations - the public - which must be kept in mind.

In closing I would like to use a little story told by Bernie Donovan, the Superintendent of Schools in New York City:

> There was a teacher in one of their schools who was annoyed by a roof leak which caused some inconvenience in her room whenever it rained. Through her principal, she requested that it be repaired. Back from Central office came word that no funds were available this year, but it will be considered for next year's budget. Budget time came around and with it some tough bargaining. In the final settlement, it became necessary to again cut back on maintenance funds to meet the salary settlement. Well, today the roof still leaks, but it drips on a contented teacher.

THE NEGOTIATING SESSION

by William R. Young
Racine School Board Member
Vice-President, Industrial Relations
Belle City Malleable Iron Co., Racine

All too often handbooks, textbooks and articles appearing in publications list the techniques of negotiating in numerical fashion. In part, this presentation will be guilty of the same practice, but the practice will be avoided wherever feasible.

Long years of industrial experience has taught us that the negotiating session --- in the vernacular of our youth --- is where the "action is." And most important of all, the experience has taught us there are no "cut and dried" rules which make it a simple process.

Before considering the aspects of the negotiating session, let's remember the experience in negotiating with school employees is far less than the experience with craft and industrial employees. While there are many similarities in negotiating procedures, the applicable laws governing the bargaining processes are sufficiently different to cause considerable variation

Board members without industrial or other negotiating experience should not be overly apprehensive when faced with the responsibility of being a member of a negotiating team. The inexperienced negotiator with a willingness to listen, ponder and decide about school employees' desires is in a position to do a job as well as the experienced negotiator. The experienced negotiator because of legal differences has to sometimes "unlearn." True, any previous negotiating experience is valuable but not quite as valuable as we are sometimes prone to claim.

If during this presentation, there are not some provocative ideas set forth it will be surprising because it is fully intended some of the ideas are not in general accord with those which most board members are all too ready to accept. Whether you agree is not of utmost importance. Whether you use good common sense in making up your own mind is important.

As a bit of self defense and because it is also a good concept for any negotiator to remember, let it be understood that the minds of equally reasonable people sometimes differ --- and the minds of people sometimes change, as you will very well find out after any appreciable negotiating experience.

The Role of Management

Interspersed throughout ensuing comments will be ideas dealing indirectly with the negotiator's role of management. To be sure there is no misunderstanding, the board member's role is to represent the public who elects him. He is not in the negotiating sessions to represent any employee. This is the role of the other side and if you have any idea the other side is there to help you reach a decision which is solely in the public's interest --- forget it. By the very nature of the process they are there as a special interest group, and so are you!

As proof of this, consider the proposition that should you grant all the requests made in original proposals by employee representatives the most surprised people of all would be the employees.

On the other hand, if the employees agreed to all the board's proposals, the board members would be the most surprised. --- Don't worry about either. They are not going to happen.

Who Should Do the Negotiating?

To determine who should do the negotiating, the school board must take into account the formality required, whether employees are represented by counsel and the complexity of anticipated proposals.

The entire board should directly participate in the preliminary negotiating sessions only if the proposals are simple and there is an accepted informality in the discussions.

Some school boards have experienced attorneys as members. If so, it is highly recommended one or more of the attorneys be on the negotiating team --- this is particularly important if there is legal counsel representing the employees.

The ideal negotiating team when the school district is large, the issues complex, and the procedures formal is made up of three or four board members --- some experienced, some not --- the head school administrator and one or two of his assistants.

Whether legal counsel should be a part of the negotiating team is in part dictated by whether legal counsel is the employee's spokesman and whether the issues under consideration are particularly subject to legal interpretation.

When negotiations in a district have become formal, it is recommended legal counsel be made a part of the negotiating team. Under section 111.70 of the Wisconsin Statutes, if a settlement is reached, upon the completion of negotiations with a labor organization representing a majority of the employees in a collective bargaining unit, the employer shall reduce the same to writing either in the form of an ordinance, resolution or agreement. The preparation of such ordinance, resolution or agreement can be a tremendous drain on the time of the administrative staff --- even though the staff may be experienced and capable of preparing the ordinance, resolution or agreement. --- You may discover it is more economical because of the proficiency and experience of the legal counsel --- or because the administrative staff will be free to perform other important duties.

In case of doubt, you should be aware that the Wisconsin Statutes provide that any municipal employer may employ a qualified person to discharge the duties of labor negotiator and to represent such municipal employer in conferences and negotiations.

The Term "Negotiating in Good Faith"

The term "Negotiating in Good Faith" is found under Section 111.70 of the Wisconsin Statutes. To the best of my knowledge there is, as yet, no Wisconsin statutory requirement that a municipal employer negotiate in good faith with its employees. One Wisconsin Employment Relations Board Commissioner, namely

Mr. Arvid Anderson probably will disagree with this position because he has dissented in cases involving the issue. Nevertheless, there has been more than one finding by the board that the failure and refusal of a municipal employer to meet and negotiate in good faith with the representatives of its employees does not constitute a prohibited practice within the meaning of Section 111.70. The statutes do provide that where an employer refuses to meet and negotiate in good faith at resonable times in a bona fide effort to arrive at a settlement, fact finding may be initiated.

Regardless of the foregoing, any school board would presently be foolhardy not to "negotiate in good faith" with duly designated representatives of its employees. The term "negotiate in good faith" is one which defies complete definition. Reams of paper have been used by courts and by the National Labor Relations Board over questions regarding matters necessary to constitute negotiating in good faith. Nevertheless, it is a term frequently used by legal as well as non-legal representatives. Probably the simplest and most readily understood definition would be to simply say "negotiating in good faith" means to "listen as well as talk."

"Listen as well as talk" is an oversimplification, but in essence the statement contains the premise that the negotiating parties must meet at reasonable times, at reasonable places with a bona fide intent of arriving at an understanding having to do with the questions of wages, hours and conditions of employment. It does not mean that either side must agree to proposals made in negotiations. It does mean there must be a sincere intent to resolve issues and to ultimately arrive at an agreement.

Location of Negotiations

For public relations reasons, the most advisable place to hold negotiations is the same place where normal board meetins are held. This assumes, of course, there will be comfortable chairs, space allocation so that parties may easily hear each other during the discussions (but with sufficient space for the parties to face each other as separate groups), convenient space for staff administrators who are to contribute to the negotiating process, and sufficient space for the press and interested community citizens to be able to attend and listen. More will be said about the press and public attendance later. If the board room does not provide the foregoing conveniences, a suitable location as close to the place where the board meets should be sought.

While the Wisconsin Statutes in general prohibit secret sessions of the board members, to my knowledge no such restrictions are applicable to the employee representatives. In addition to the room in which the actual negotiating occurs, there should be a conveninet place for the representatives of the employees to go when they care to caucus for private deliberation.

How the Board's Negotiating Committee Functions During Actual Negotiations

This is probably as good place as any to bring up the controversial subject of whether negotiations should occur in private or closed sessions. Although the Anti-Secrecy Law provides that no formal act of any kind may be introduced, deliberated upon or adopted at any closed meeting of the school board, the State Attorney General has rendered an informal opinion regarding this issue. The opinion as reported in a Wisconsin Association of School Boards publication reads:

> "I believe it may be broadly stated that preliminary negotiations between a representative of a municipal employer and a representative of its employees are not subject to requirements of Section 14.90 (Anti-Secrecy Law), but that deliberations and adoption of any specific recommendation on the part of the municipality must comply with that statute."

There will be those who disagree with the judgment that all sessions with employee representatives should be open to the press and to the public, and if one so desires there are sufficient procedures available to make it possible to at least have preliminary discussions in the absence of the public or the press. It is the considered judgment of this experienced practitioner that all meetings with the representatives of the employee should be formal and open to the press and the public.

It has previously been stated the board members' role is to represent the public. Although it is admitted there are certain handicaps to negotiating in open session, the public relations aspects outweigh the handicaps. When a board member deludes himself into thinking he can do a better job of negotiating privately with representatives of municipal employees, he should pause to ask himself the following question:

> Isn't the main reason why I want to negotiate in private primarily due to lack of capability or preparedness?

If a board member is afraid to say something to representatives of the employees in open session, it's questionable whether it should be said "behind the public's back."

There will be an aura of suspicion surrounding any conclusions reached in a private or closed session. The suspicion will create doubt in the minds of the people and the press. The doubt will engender comments of misunderstanding. The misunderstanding will be far more harmful than the handicaps of open session negotiations.

During the initial discussions of the issues, members of both sides should feel reasonably free to express opinions and ask questions. After the initial sessions, however, the number of people who act as spokesmen should be reduced to not more than one or two. At best, the negotiating process is a time consuming one. If all members are permitted to freely speak throughout all negotiating sessions, it will soon be discovered that arriving at an agreement will be almost impossible. A board member must make an attempt to have an understanding of the issues early in the game if he is to avoid redundant and time consuming discussions. Nothing can be more disconcerting than to have a board member show a lack of knowledge of an issue which has been discussed in detail. Therefore, the series of negotiating sessions may be likened to a pyramid, starting at the base and rising to the apex. As negotiations progress, the number of spokesmen should diminish to the point until the final apex is reached. Almost without exception the chairman of the negotiating committee or a legal representative, if one is participating, should be the main spokesman for the board.

The Techniques and the Art of Negotiating

For organization purposes only, the techniques of negotiating hereafter will be mentioned in numerical fashion. It should not be presumed the sequence indicates the relative importance of the technique:

1. Exercise effective listening. Effective listening means to attempt to understand the other person's reasoning. While listening one should not assume anything and one should not interrupt where the interruption would affect the meaning of an issue being explained. Only through effective listening can one obtain the impressions which are subsequently necessary for weighing which of the issues are of the greatest relative importance. When one effectively listens, quite often there will be times when the voice inflection, the explanations given, or the person speaking will be meaningful in determining which issues are the most important issues.

2. Ask incisive questions. In the negotiating process little is to be achieved by any individual asking questions solely for the purpose of letting someone know they are present. If the questioner is not completely interested in the answer which he is likely to receive to a question, it is best not to ask anything. Through the use of incisive questions, it is possible to identify a biased or unsupportable position, wrong assumptions, or propaganda appeals.

3. Make only thoughtful and timely responses to statements given or to the answers of questions asked. Thoughtful and timely responses should be made for the purpose of explaining major principles, tests and standards to which the parties have agreed or the relationships of the issues at hand. Thoughtful and timely responses will also be the ultimate technique used in summarizing an opposing point of view so there is little question as to the specific meaning.

4. Make timely presentation of realistic proposals. As a general rule, it is suggested the board's proposals be included at the time it makes its counter-proposals. If, however, proposals are initially set forth in writing by both parties, it is suggested the board's proposals be delivered to the employee representatives simultaneously with the acceptance of their written proposals.

   Do not be too eager to include proposals which have little or no hope of being accepted. "Window dressing" is a technique used frequently by poorly qualified negotiators acting under the illusion that such "window dressing" will cause the opposing party to be more inclined to be reasonable. Remember, during the negotiating process the "real" issues will ultimately have to be determined. The extent to which the parties exercise "window dressing" will increase or decrease the complexity of the process. Simply because the other side is guilty of the practice is no excuse for doing th same.

5. Elicite positive responses to issues being considered. Ask the opposing representatives to summarize their understand-

ing of what has been agreed to when it appears oral agreements have been reached or on the threshold of being reached. If, in the summarizing, the understanding expressed requires clarification, permit the spokesman to make additional, but brief, remarks to clear up any technical misunderstandings.

6. Express personal indignation in those situations where the opposing parties are being unrealistic. Many experienced negotiators will tell you there is no place in the negotiating process for personalities nor the expressing of personal indignation. This position does not face the reality of negotiating. There are definitely times when expression of personal indignation is well in order. Failure to do so can greatly mislead the other party into assuming you are completely apathetic. Doing so may demonstrate your seriousness of opposition to a particular proposal.

7. Adhere to the following principles while negotiating (also at all other times in dealing with employees):

FAIRNESS

Voluntarily show in every relationship a desire to be fair. If the board takes advantage of employees, or even leaves the impression that it is doing so, it inevitably loses the confidence of the employees and excites suspicion of its subsequent actions. If employees gain the impression that the board is using shady practices, it takes a long time to convince them otherwise and restore confidence.

On some occasions, employees and/or their representatives may leave board members with the impression they are unfair or unreasonable in their requests. This is no excuse for the board to compromise its own standards, as to do so is only to aggravate and justify such behavior on the part of employees and/or their representatives.

FORTHRIGHTNESS

Deal frankly with the employee representatives and always, if possible to do so, explain to them the reasons for any proposals which affect the employees' jobs. If the representatives understand why things must be done in a certain way, they are more likely to cooperate with the board than if they must accept a situation without question. Even to gain the greatest advantage from things which the board undertakes specifically for the employees' welfare, it is well to discuss the actions with the employee representatives. By being open with the employee representatives about proposals, the board will not only gain goodwill, but in many cases it may receive valuable suggestions.

CONCERN FOR EMPLOYEES WELFARE

The board has an obligation to be concerned for the personal welfare of all its employees. Collective bargaining procedures have in some cases caused some board members to assume they are no longer responsible for the well-being of employees. Complaints are probably inevitable in the negotiating process, but a proper concern on the part of board members for the welfare of employees will eliminate most of the legitimate ones and will create an atmosphere in which others can successfully be eliminated.

KNOWLEDGE OF FACTS

It is impossible for board members to do their part in negotiations unless they possess accurate knowledge of pertinent facts. Every board member who is involved in a negotiating process should know and understand the provisions of any existing agreements. Knowledge of the facts compiled prior to negotiations are essential if the concluded agreement is to be unimpeachable. It is of little benefit for a board member to feel morally certain that he is taking a correct position if the facts he uses in arriving at the conclusions are not beyond challenge.

SALESMANSHIP

It is possible for board members to observe all the foregoing principles --- to be fair, to be forthright, to be concerned for the employees welfare, and to know the facts and still not do a good job in negotiations, as this is a field in which the manner of doing things is almost as important as the things done. This may be why negotiations is often referred to as an art.

Some men are natural leaders and therefore, able to sell employees on accepting their proposals. But all board members can do a better job in this respect by the exercising of conscientious effort. Even if a board's position is incontrovertibly right in a negotiating dispute, the board should not allow its rightness to minimize its efforts to present its position in palatable fashion.

FIRMNESS

Despite all efforts to observe the foregoing principles, there will be times when the board's reasonable positions will be challenged and will, in some cases, be rejected by the employees and their representatives. In these situations the board must be firm in standing for the public's rights as no respect can be gained by making unwarranted concessions under pressure. Futhermore, each concession leads to new pressures for further concessions. In other words, a board cannot buy the goodwill of employees. What is here advocated is not a policy of appeasement, but simply one of good management.

If board members can conduct themselves so they have the goodwill of employees, there will be many less occasions when they will have to be firm. And if they must be firm, they will find themselves in a stronger position than otherwise would be possible.

Disposing of the Rules Items and the Cost Items in Negotiations.

Some effort should be exerted to determine how the employee representatives will in turn present the board's proposals and counter-proposals to the employees. If the representatives are inclined to take a firm position in its recommendations to the membership, the "rules of the game" will be considerably simplified. If, on the other hand, the representatives are inclined to present all proposals and counter-proposals to the employees without taking a positive stand, a definite attempt should be made to determine at what stage of the negotiations this will occur. Experience teaches us that the rules items are more difficult to dispose of if they are repeatedly submitted in open discussion to the membership without positive recommendations by the employee representatives. In such event, there should be a carefully worded statement to the employee representatives that no agreement is reached on any issue until all issues are resolved.

If the employee representatives are known to be the type which will take a positive position regarding the issues --- in other words they will definitely "recommend" or "not recommend" --- the best procedure will be to attempt to discuss the rules items separately from the cost items.

The ideal approach to disposal of the rules items and cost items is to distinguish between the two; to clarify positions on the rules items first; reach a substantial degree of accord on the rules items; then progress into the cost items. Reaching accord on the cost items is the most likely spot for reaching accord on the entire agreement. Therefore, the cost items should remain as the last items to be discussed.

As a matter of effective procedure, if the rules items can be discussed in preliminary meetings between members of the administrative staff and employee representatives prior to formal proposals, it will be particularly helpful because it is the staff which has to live day-to-day with the rules. Their understanding may surpass that of board members and they will be in a position to express recommendations.

More frequently than not the public and press interest will be centered on the cost items. This is sometime unfortunate because the working relationships are mostly governed by the rules items.

Resolving Deadlocks when Negotiations Fail

It previously has been stated that the minds of "equally reasonable people sometimes differ." In negotiations this can cause a deadlock concerning wages, hours or working conditions. As a practical matter, when this occurs a board may resort to any of the following procedures to break the deadlock:

1. The board may be resolution grant such portion of the employee proposals and demands as it determines to by practical, fair, equitable and within the rights of the district's ability to pay.

2. The board may join with the employee organization in a request to the Wisconsin Employee Relations Board for mediation of issues.

3. The board may petition the WERB for fact finding or the board may wait until the employee organization petitions for fact finding or the board and the employee organization may jointly petition for fact finding.

In general it may be said the taking of unilateral action as involved in granting such portion of the employees proposals as the board determines to be practical, fair, equitable and within the rights of the district's ability to pay is not likely to completely resolve the deadlock. It is likely to create complications for the next round of negotiations.

Of the three procedures, mediation is probably the most desirable for several reasons: It is a continuation of the negotiating process. It is entirely a voluntary process since the mediator has no power of compulsion. It involves a third party who will normally have considerable experience in trying to change the minds of the "equally reasonable people." It affords an opportunity for fully exploring alternative solutions and at worst, compromise is likely to occur under controlled conditions.

The third procedure of fact finding is probably less desirable than mediation because it implies the parties are not able to determine their own course of action through the negotiating process. Although the recommendations for solution of the dispute as made by the fact finder are not compulsory, there is normally considerable public pressure and support of the recommendations. Under the Wisconsin Statutes, fact finding may be initiated by either party if, after a reasonable period of negotiation, the parties are deadlocked or if the employer or union fails or refuses to meet in good faith. Upon completion of hearings the fact finder must make written findings of facts and recommendations for solution of the dispute and cause the same to be served on the employer and union.

Experts in the field of public employment labor relations are in general agreement that fact finding under the Wisconsin Act should be kept to a very minimum if the negotiating process in the municipal employment field, as envisioned by the Act, is to work successfully.

In conclusion, it is safe to say the best conditions will result if a deadlock is avoided. If board members apply the previously mentioned procedures, a deadlock is very unlikely to occur.

WRITING THE AGREEMENT

by Ray E. Wachs
City Attorney, Eau Claire, Wisconsin

The title of our subject, "Writing the Agreement" embraces a rather broad array of subject matter. Much too much to cover in any great detail in the next 30 minutes. Nevertheless, we shall proceed with the thought of touching upon the more important aspects.

I realize that some of you already function with some type of written understanding with your employees. On the other hand, I also understand that many of you represent school districts which have not as yet proceeded to that point in your employer-employee relationship.

The bargaining process can be and generally is a rather tedious one, running into many hours and days of preparation and conferences. Whether or not all of the time and effort so employed is worth it will generally be evidenced by the final result. The written agreement is the final result of all such preparation and bargaining, and therefore is indeed a most important part of the collective bargaining process and is in fact the very symbol thereof.

Let me say at this point that if we conducted our negotiations wisely, we will not find ourselves "reducing" our agreement with the employees to writing, if by "reducing to writing" we mean the phrasing of the various items upon which agreement was reached. We will rather find ourselves arranging the various already written items of agreement into a presentable and orderly form. I say this because the particular language of agreement on the various points bargained for at the conference table should not be left for reduction to writing at some remote later time. In fact, it should never be assumed that agreement has been reached on any point unless and until the precise language on such a point has also been agreed upon.

One of the most fertile areas of frustration in the collective bargaining process is the all too frequent error made, by both management and the union, in assuming from several verbal affirmations made during debate that a complete agreement has been reached on a particular point without reducing the same to writing, as soon as possible, for review and approval by both parties in more definitive form while the matter is still relatively fresh. At best, failure to do so will frequently result in subsequent delay and confusion; and at worst, it will breed dissatisfaction and mistrust.

Form of the Written Agreement

Under present Wisconsin law, the written agreement need not be in the usual form of a contract as generally understood with both parties affixing their signatures thereto. Section 111.70 of the Wisconsin Statutes, while placing the responsibility for reducing the agreement upon wages, hours, or working conditions to writing upon the municipality, permits the municipality to determine unilaterally whether the final form of such written agreement will be an ordinance, resolution or a written contract.[1]

[1] Wis. Stats 11.70 (4) (i)

While the written contract is in all cases now used in Eau Claire in dealing with Unions or the Teachers Federation, the common council did until recently conclude its annual negotiations with the City employees with the passage of an ordinance amending the "Personal Rules and Regulations." The latter was the basic ordinance which defined and prescribed the employer-employee relationship of the City. A copy of the chapter and section titles of this ordinance in skeleton form is being furnished for your examination. (Appended to this report) I believe you will find it quite comprehensive and if nothing else, it does demonstrate that it is possible at least for a time for the employer-employee relaionship to be active without an actual written contract. The provisions of the "Personnel Rules and Regulations" do even now provide the basic structure of the written collective bargaining agreement into which the "Personnel Rules and Regulations" are being re-written.

The Eau Claire Board of Education has had a written contract with its teaching employees ever since 1946 when such contracts were still generally considered illegal. I might add paranthetically that our school superintendent was recently approached by a graduate student from the University of Chicago who is making a study of the history of the collective bargaining in school districts. This person is making his investigation on a nationwide basis and he advised that insofar as he had completed his investigation, it was the oldest school district collective bargaining agreement which he had found. A skeleton outline of its titles is also provided for your study. (Outline appended to this report)

Let me say that these skeleton outlines are not presented as models of either draftsmanship or content. They are, however, offered as additions to your notebook so as to provide study material from which we can further explore the subject matter of discussion. They may also be of some value as a reference, especially to municipalities and school districts where the idea of a formalized and documented employer-employee relationship is still rather novel. The "Personnel Rules and Regulations" of the Eau Claire City Council will also serve as an example of comprehensiveness of subject matter covered, while the teachers agreement will serve as an example of relative brevity considering the antiquity of its origin.

As to which of such forms; that is, an ordinance, resolution or contract is the one to be preferred; without question ever since the enactment of Section 111.70 of the Statutes no union or federation of employees can be expected for very long to be satisfied with anything less than a written contract. A written contract is mandatory in unionized private employment. A written contract is mandatory under the new State Employment Labor Relations Act which will become effective on January 1, 1967; and while the application of that Act is limited to employment with the State of Wisconsin, the legislative preference is crystal clear. I am certain that within a very short time the written contract form will also be mandatory in the municipal employment field. To attempt to substitute something less in the face of a request for the same will needlessly invite frustration.

Municipal employees have a tendency not to have great faith in a legislative act as a substitute for a written contract. A resolution or ordinance enacted by the employer seems to them a pronouncement peculiar to management only, offering stability and security to only one party to the agreement. A written contract offers these to both and is recommended. As the former Supreme Court Justice E. L. Wingert has stated, "Embodiment of the agreed terms with respect to wages, hours, fringe benefits and other conditions of employment in a single written and signed contract, copies of which may readily be printed and distributed to all concerned, is business-like and has advantages in the way of convenience of reference, and tends to give to the employees a feeling of assurance that they are recognized as equal parties to the bargain and can rely on wholehearted adherence to its terms."[2]

The Parties to the Contract

While it is mandatory that the municipal employer reduce to writing the agreement which it reaches with its employees with respect to wages, hours and working conditions, such mandate applies only with respect to an agreement reached with a labor organization which represents a majority of the employees in a collective bargaining unit. See Wis. Stat. Sect. 111.70 (4) (i).

Undoubtedly the most frequent manner of recognition of the collective bargaining unit with which the municipal employer is to bargain is by voluntary recognition as such by the municipal employer. This should be and I am sure usually is done with some formality. Passage of a simple resolution recognizing Local XYZ as the exclusive bargaining agent for the non-teaching employees and another recognizing Local ABC as the exclusive bargaining agent for the teaching employees will usually suffice, except perhaps in the larger cities where additional crafts and large departmental structurization and job diversification may justify or demand additional units.

If a question arises between the municipal employer and the union as to whether the union in fact represents the employees of the employer, either the union or the municipal employer may petition the WERB to conduct an election among the employees to determine whether they desire to be represented by a certain labor organization. Such election is held by the WERB and it certifies the results thereof in writing to the interested parties. The employee organization which receives the majority of the votes cast at such election becomes the exclusive bargaining representative of all of the employees in the particular collective bargaining unit and thus becomes the second party to the contract.

However, any individual employee or any minority group of employees in a collective bargaining unit has the right at any time to present grievances to his employer in person or through representatives of his own choosing and the employer must confer with them in relation thereto.

Let us now turn our attention to some of the usual and/or important matters which are dealt with in a typical municipal collective bargaining agreement.

PREAMBLE

Most contracts start out with a preliminary statement or preamble which generally sets forth in generous language the purpose and object of the agreement. While such a statement is not necessary it surely can do no harm, and if it also incorporates a recitation pledging mutual cooperation and a reminder that among others the public interest is also at stake, then it has perhpas accomplished all it can. Perhaps the following is illustrative:

[2] In re: Pet. of Shawano Co. Highway Employees Union WERB Case No. 9061 KK, FF-12 Oct. 1st, 1963.

> "Whereas the efficient administration of the school system and the well-being of its employees require that orderly and constructive relationships be maintained between employee organizations and the School Board; and "Whereas, the signatories hereto desire to encourage a harmonious and cooperative relationship between the School Board and its employees; and "Whereas, it is the purpose of the signatories to this agreement to maintain and improve the present high standards of service to the people of the School District and to improve morale and personnel relations through a stabilized relationship between the School District and Local 128 as the representative of all teaching employees of the School District employed by said District; "NOW THEREFORE, . . . etc."

Exclusive Recognition Clause

A clause recognizing Local ABC, etc. as the exclusive bargaining agent for a unit of employees should be included.

While the right to exclusive recognition is not as clear in municipal employment as it is in private employment, exclusive recognition is now generally conceded, and WERB held elections for determination of such status are common. In any event, unions desire exclusive recognition and it would seem to be to the advantage of the public employer as well to deal with one union representing a particular unit rather than to have to deal with several.

A simple statement in the contract as contained in the Eau Claire Board of Education contract will suffice. This reads as follows: "The Board of Education agrees with Local 560 (AFSCME AFL-CIO) that said Local shall be regarded as the sole bargaining agent for employees covered by this contract."

Coverage Clause

Care should be taken to include a paragraph which clearly defines the class or classes of employees who are and sometimes also who are not covered by the contract. Experience will soon demonstrate that caution on part of both union and management in this matter must be practiced. The Eau Claire non-teachers contract reads as follows:

> "Section 2. The provisions of this Agreement shall be applicable to head custodian, maintenance men, custodians, warehousemen and matrons."

Certain employees will necessitate separate bargaining units. Others are to be excluded from a collective bargaining unit. Employees of the particular employer who are members of a separate craft are not to be included in another bargaining unit and the board will not order an election among employees in a craft unit except on separate petition initiating representation in such craft unit.

The WERB has adopted the following definition of a craft. "Employees are engaged in a single craft when they are a distinct and homogeneous group of skilled journeymen craftsmen working as such together with their apprentices and/or helpers." The Board considers that professional employees such as teachers, constitute a craft within the meaning of 111.70 and therefore may constitute themselves as a separate collective-bargaining unit. Supervisory employees as well as confidential employees should also normally be excluded from the collective bargaining unit and will be ordered excluded upon proper showing to the WERB that their presence is interfering with or jeopardizing the rights of the other employees. The WERB includes as supervisory employees those persons who have the authority to effectively recommend the hiring, firing, promotion, and transfer of employees or who spend fifty per cent or more of their time supervising other employees.

Confidential employees are employees such as secretaries to the principal executive, to the attorney for the school board, or to the personnel officer, and who have confidential information about management decisions regarding the employment policies of the employer.

Representation Clause

This clause usually sets forth the manner in which each party will notify the other as to the name of their representatives for purposes of negotiation. It is efficient to include such statement as:

Representation

Section 1. The union shall be represented in all bargaining and negotiating with the School Board by such members, committee or officers thereof as the union shall determine. The names of such persons or committee shall be communicated to the board in writing.

Section 2. The Board shall be represented in such bargaining or negotiations by such representation as the Board shall designate. The union shall be notified of the names of the representatives in writing.

Union Security Clauses

Union security provisons are, in general, stipulations in an employment contract which make union membership a condition of employment or of continued employment. The legality of such provisions, including the closed shop, the union shop, the agency shop and modifications of the same is generally questioned in Wisconsin insofar as public employment is concerned.

However, union dues deduction clauses such as found in the Eau Claire non-teachers contract are, I believe, quite common. Under such a clause the employer agrees to deduct the union dues from the employee's pay check periodically. Note, however, that the employer is to be given specific written authorization to do so by the individual employee. See Stat. Sec. 241.09.

The City of Milwaukee has a rather unique provision regarding a "Union Security" clause. It is agreed by the City and the union that if the State Legislature should at any time during the contract period authorize the agency shop or some other union security provision, the contract may be reopened on that aspect and negotiations are then to take place with respect thereto.

Grievance and Arbitration Procedure Provisions

I would assume that almost all collective bargaining contracts even in the public employment field set forth some type of an agreed upon grievance procedure. Fewer have provisions leading to final and binding arbitration. Final and binding arbitration on matters which are by law to be determined under the discretionary powers of the school board or a city or village council cannot be referred to final arbitration. However, disputes relating to the application of agreed upon matters in a collective bargaining agreement are arbitrable. The City of Milwaukee contract with Milwaukee Dist. Council 48 AFSCME, AFL-CIO effective January 1, 1966, has both a grievance procedure as well as a section setting forth the procedures and matters which may be submitted to final and binding arbitration and those which are not to be so submitted. I recommend it for your study.

In the absence of an arbitration clause or as an alternative thereto it is well to remember that the mediation services of the WERB are available upon request of both parties as an aid to settlement of disputes.[3] In addition the WERB has in the past honored and undoubtedly will continue to honor a stipulation in a collective bargaining agreement referring grievances in the municipal field to the Board for fact finding after all other grievance procedures have been exhausted. As an illustration:

> As late as October 14th of this year fact finder E. L. Wingert found a work rule of the city of Milwaukee reasonable after fact finding. The work rule gave certain relief to street workers when the outside temperature sagged below 9 degrees below zero. The union contended that the work rule was unreasonable because it did not take into account the velocity of the wind at the time. The Milwaukee contract provided that such disputes if not otherwise settled could be referred to fact finding. The WERB accepted jurisdiction on complaint filed and appointed a fact finder. The fact finder agreed that the wind could be an important factor but added that he could nevertheless not say that the work rule was unreasonable and recommended that any further complaint with respect to such rule be taken up in a subsequent collective bargaining session. Case XLI No. 10689 WERB 1966.

Duration of Contract

Section 111.70 states that "such agreements shall be binding on the parties only if express language to that effect is contained therein." Hence, it goes without saying that such a clause is most vital. In addition, section 111.70 authorizes a statement for which the contract shall remain in effect not to exceed one year. Generally, this is handled in a paragraph something like this, Article XVI.

---

[3] Wis. Stats. Sec. 111.70 (4) (b)

"Duration"

Section 1. This Agreement shall be binding and in full force and effect from January 1st, 1966, to January 1st, 1967.

Section 2. The terms of this contract shall continue in full force and effect from year to year, unless written notice is given by either party hereto to the other at least 30 days prior to July 1st of each year thereafter requesting that the Agreement be amended or cancelled. Failure to give such notice shall be construed as an affirmative request and consent to renewal for an additional year. If amendments are desired, such amendments shall be contained in such notices.

Whether or not such year to year renewal would hold up, if challenged, may be open to some question. However, no harm is done by putting it in. It is common practice to include such provision and it is probably legal.

It is my understanding that an attempt will be made in the next legislature to extend the contract period to three years. The State Employment Labor Relations Act, effective January 1, 1967, provides that an agreement thereunder may run for 3 years. See Stat. Sec. 111.89. This would seem to be highly advantageous as negotiating and contract writing seems to be becoming a year-round activity, and I believe both the union and management would welcome a breathing spell between contract negotiations. As a matter of fact, a number of municipalities are already entering into two-year agreements. The Eau Claire City Council did so a year ago. Both sides realize that the contract insofar as the second year is concerned is strictly dependent upon the honor of the parties. We expect no problem.

Saving Clause

Each contract should also have a "Saving Clause." The city of Milwaukee has one which reads as follows: "If any Article or Section of this Agreement or an Addendum thereto should be held invalid by operation of law or by any tribunal of competent jurisdiction, or if compliance with or enforcement of any Article or Section should be restrained by such tribunal, the remainder of this Agreement and addendums thereto shall not be affected thereby, and the parties shall enter into immediate collective bargaining negotiations for the purpose of arriving at a mutually satisfactory replacement for such (invalid) Article or Section."

Obviously there are many additional matters which are customarily dealt with in a municipal collective bargaining agreement. Your study materials suggest some of those not commented upon. A "No-Strike Clause" while not required since strikes are specifically prohibited by law, is nevertheless important and might well be added. Should attempts to legalize strikes in public employment at least in certain so-called less sensitive areas prove successful, such a clause previously included would serve a good purpose.

The Eau Claire Teachers Contract also requires that any teacher included under the terms of the contract must have signed or must sign the standard individual teachers contract prescribed by law. This of course would need to be done whether or not such clause is contained in the collective bargaining agreement, as the latter is not a substitute for the same.

A clause defining seniority and its workings should also be included. A clause stating that the contract constitutes the entire agreement between the parties and that no verbal statements shall supercede any of the provisions of the written contract should be included to cut off the challenge of incompleteness as a wedge for reopening negotiations.

The number of clauses or items covered by a contract will, of course, generally determine its length. Whether or not a contract is a "good" contract is not, however, dependent upon how long or short it is. A contract should be as long as necessary to state the items of agreement which it is intended to encompass. If it does this in clear and simple language and meets legal requirements, it is a good contract for that bargaining period. No contract is ever perfect because the employer-employee relationship is never static. Thus the continual need for bargaining and amendment.

On the point of the length of the contract, Rollen Posey, a noted labor relations authority, has this to say: "Some experts maintain that the length of the written agreement is in inverse proportion to the amount of mutual trust existing between the union and the management. A long agreement, ordinarily referred to as a legislative agreement tries to cover every situation that could possibly arise. A short agreement, which is called an administrative agreement, leaves most matters to later joint determination. The process of negotiation is not concentrated into a periodically repeated battery of conferences. Negotiation goes on all the time. Certain it is that if both parties are interested primarily in solving each problem or issue that arises, constructively and with everyone's interests at heart, the contents and the overall length of the written agreement are not of great importance." (See Posey, "Management Relations with Organized Public Employees", 1963 - Public Personnel Association p. 71)

I would like to make a final comment on one more clause of great importance especially at this time. I refer to the so-called "Management Rights" Clause. This provision is designed to preserve at least certain phases of management prerogatives in order that the management directed level of service may be maintained. One of the last acts of the recent legislature to be signed into law was the State Employment Relations Act.[4] This Act sets forth a good illustration of such a provision. Submitted herewith to you is a copy of the same as well as a copy of the Management Rights Provisions of Federal Executive Order 10988; the City of Milwaukee Contract with Milwaukee Dist. Council 48 AFSCME, AFL-CIO, January 1, 1966, and the City of Eau Claire Board of Education Contract (Non-Teaching Employees) Contract with Local 560, AFSCME, AFL-CIO.

---

[4] The "State Employment Labor Relations Act" effective January 1st, 1967, applicable only to state employment, makes collective bargaining and the written agreement with respect thereto mandatory. However, it specifically exempts the following subjects from such mandatory collective bargaining in the following language: "Nothing herein shall require the employer to bargain in relation to statutory and rule provided prerogatives of promotion, layoff, position classification, compensation and fringe benefits, examinations, discipline, merit salary determination policy and other actions provided for by law and rules governing civil service."

Inasmuch as the 1967 Legislature will undoubtedly wrestle with the question of whether or not collective bargaining is or shall be made mandatory in the municipal field, will it also spell out items which shall be exempt therefrom as in the "State Employment Labor Relations Act?" See Section 111.91 of the Wis. Stats.

It will be noted that the Management Rights Clause in the Eau Claire Contract and thr Management Rights Clause in the Milwaukee Contract contain a provision that the question of the reasonableness of the work rules shall be reviewable under fact finding procedures. The cold weather protection case above referred to was such a review.

Under the Eau Claire contract the Board of Education has agreed to consult with the union before promulgation of a new work rule. I believe this is a salutary addition of advantage to both parties. First of all, let me say that this reflects a practice which has been generally observed in Eau Claire for some years; and secondly, it would seem the wiser policy to iron out any differences of opinion as to contemplated work rules before they are issued rather than to struggle with a grievance after the same has been put into effect, especially a grievance which could have been easily avoided.

One might, however, ask the question, why should the employees through their organization have a right to question management's work rules? Shouldn't such matters more properly be and remain the exclusive prerogative of management? This, however, is one of the signs of the times.

Such participation on part of the union in the jurisdiction of what was generally deemed to be an exclusive management function has now entered into the municipal employer-employee field. It has existed in the private employment field for many years and has inured to the benefit of both. Whether we like it or not, it is here to stay and it has the blessing of our legislature. This new relationship, incorporated as it is in the collective bargaining process, in many cases already is and in the remainder soon will be the accepted norm under which we either are and/or will be dealing with our employees. All of this is sometimes like a game, but it has a serious note. It deals with men and their labors and the welfare of families. It deals with the process of government and efficiency therein. It is aimed to accord to government the fair measure of return for its investment; and to the laborer it attempts to accord the worth of his hire.

Viewed in the light of the express legislative purpose which it pursues, the written collective bargaining agreement, which is the end result of this process called collective bargaining, becomes and is one of the highest symbols of man's continual efforts to establish a just society.

APPENDIX

CITY OF EAU CLAIRE

PERSONNEL
RULES AND REGULATIONS

25.01 - PERSONNEL REGULATIONS
- 25.01 (1) General
- 25.01 (2) Police and Fire Employees
- 25.01 (3) Duties of the City Manager
- 25.01 (4) The Merit System

25.02 - DEFINITIONS
- 25.02 (1) Administrative Personnel
- 25.02 (2) Class
- 25.02 (3) Class Specifications
- 25.02 (4) Classification Plan
- 25.02 (5) Demotion
- 25.02 (6) Induction
- 25.02 (7) Outside Employment
- 25.02 (8) Pay Plan
- 25.02 (9) Pay Range
- 25.02 (10) Permanent Full-time Employee
- 25.02 (11) Permanent Part-time Employee
- 25.02 (12) Permanent Full-time Position
- 25.02 (13) Permanent Part-time Position
- 25.02 (14) Probationary Employee
- 25.02 (15) Probationary Period
- 25.02 (16) Promoted Probationary Employee
- 25.02 (17) Promotion
- 25.02 (18) Promotional Probationary Period
- 25.02 (19) Reclassification
- 25.02 (20) Reinstatement
- 25.02 (21) Restoration
- 25.02 (22) Shift Employee
- 25.02 (23) Suspension
- 25.02 (24) Temporary or Seasonal Employee
- 25.02 (25) Temporary or Seasonal Position
- 25.02 (26) Transfer

25.03 - RECRUITMENT
- 25.03 (1) General
- 25.03 (2) Application Procedures

25.04 - INDUCTION
- 25.04 (1) General
- 25.04 (2) Examination Process
- 25.04 (3) Eligibility Lists
- 25.04 (4) Appointment Procedure
- 25.04 (5) Probationary Period and Permanent Employment

25.05 - CLASSIFICATION PLAN
- 25.05 (1) General
- 25.05 (2) Administration
- 25.05 (3) Reclassification

25.06 - PROMOTIONS AND TRANSFERS
- 25.06 (1) Promotions
- 25.06 (2) Transfers

25.07 - TRAINING

25.08 - HOURS OF WORK
- 25.08 (1) The Work Week
- 25.08 (2) The Work Day

25.09 -VACATION LEAVE
- 25.09 (1) General
- 25.09 (2) Eligibility for Vacation Leave
- 25.09 (3) Accrual of Vacation Leave
- 25.09 (4) Vacation Leave Administration
- 25.09 (5) Vacation Accumulation
- 25.09 (6) Terminal Vacation

25.10 - SICK LEAVE
- 25.10 (1) General
- 25.10 (2) Eligibility for Sick Leave
- 25.10 (3) Accrual of Sick Leave
- 25.10 (4) Sick Leave Administration

25.11 - INJURY LEAVE
- 25.11 (1) General
- 25.11 (2) Eligibility for Injury Leave
- 25.11 (3) Injury Leave Allowance and Administration
- 25.11 (4) Use of Sick Leave

25.12 - MILITARY LEAVE
- 25.12 (1) Temporary Military Leave
- 25.12 (2) Extended Military Leave

25.13 - LEAVES OF ABSENCE
- 25.13 (1) Emergency Leave
- 25.13 (2) Leave of Absence With Pay

- 25.13 (3) Leave for Funeral Attendance
- 25.13 (4) Educational Leave Without Pay
- 25.13 (5) Leave of Absence Without Pay

25.14 - ABSENCE WITHOUT LEAVE

25.15 - HOLIDAYS
- 25.15 (1) Number of Paid Holidays
- 25.15 (2) Eligibility for Paid Holidays
- 25.15 (3) Holidays Falling on Week Ends
- 25.15 (4) Holidays Occurring During Leaves of Absence

25.16 - SUGGESTION SYSTEM

25.17 - LAY OFF

25.18 - APPOINTMENT AND PLACEMENT OF RELATIVES

25.19 - RESIDENCE
- 25.19 (1) Residence After Permanent Employment
- 25.19 (2) Change of Residence

25.20 - REINSTATEMENT
- 25.20 (1) General
- 25.20 (2) Reinstatement After Sickness

25.21 - POLITICAL ACTIVITY

25.22 - OUTSIDE EMPLOYMENT

25.23 - ACCEPTANCE OF GIFTS

25.24 - THE PAY PLAN AND COMPENSATION POLICIES
- 25.24 (1) General
- 25.24 (2) Pay Plan Administration
- 25.24 (3) Demotion Pay
- 25.24 (4) Holiday Pay
- 25.24 (5) Overtime Compensation and Compensatory Time Off
- 25.24 (6) Promotion Pay
- 25.24 (7) Reclassification Pay
- 25.24 (8) Change of Class in Pay Range
- 25.24 (9) Reinstatement Pay
- 25.24 (10) Reporting Pay
- 25.24 (11) Recall Pay
- 25.24 (12) Military Leave Pay
- 25.24 (13) Training Pay
- 25.24 (14) Transfer Pay
- 25.24 (15) Uniform Allowance

25.25 -PENALTIES
- 25.25 (1) Applicability
- 25.25 (2) Suspensions
- 25.25 (3) Demotions
- 25.25 (4) Dismissal

25.26 - PROCEDURES FOR APPEALS
- 25.26 (1) Employees Other Than Police and Fire Employees
- 25.26 (2) Police and Fire Employees
- 25.26 (3) Form of Appeals
- 25.26 (4) Employee Representations
- 25.26 (5) Decision Time Limits for Appeals

25.27 - PERSONNEL OFFICER

25.28 - RETIREMENT POLICY

CONTRACT - Eau Claire School Board

Covering Conditions of Employment of Certain Employees of the Board of Education (Teaching Employees)

SECTION 1. Preamble

SECTION 2. Coverage

SECTION 3. Lay Off Procedures

SECTION 4. Reduction of Salaries - Procedures

SECTION 5. The Teaching Year and Job Assignments

SECTION 6. Professional Improvement Requirements

SECTION 7. Minimum Qualifications - Probationary Periods

SECTION 8. Method of Payment of Salaries

SECTION 9. Health Certificate

SECTION 10. Retirement

SECTION 11. Classification and Scales of Pay

SECTION 12. Family Increment

SECTION 13. Group Life Insurance

SECTION 14. Grievances

SECTION 15. Necessity of Individual Teacher Contract

SECTION 16. (Repealer Clause)

SECTION 17. Effective Date of Agreement

APPENDIX

STATE EMPLOYMENT LABOR RELATIONS ACT

Sec. 111.90 Management rights

Nothing in this subchapter shall interfere with the right of the employer, in accordance with applicable law, rules and regulations to:

(1) Carry out the statutory mandate and goals assigned to the agency utilizing personnel, methods and means in the most appropriate and efficient manner possible.

(2) Manage the employes of the agency; to hire, promote, transfer, assign or retain employes in positions within the agency and in that regard to establish reasonable work rules.

(3) Suspend, demote, discharge or take other appropriate disciplinary action against the employe for just cause; or to lay off employes in the event of lack of work or funds or under conditions where continuation of such work would be inefficient and nonproductive.

* * * * *

FEDERAL EXECUTIVE ORDER

Management Rights Clause

"Management officials of the agency retain the right, in accordance with applicable laws and regulations, (a) to direct employees of the agency, (b) to hire, promote, transfer, assign, and retain employees with the agency, and to suspend, demote, discharge, or take other disciplinary action against employees, (c) to relieve employees from duties because of lack of work or for other legitimate reasons, (d) to maintain the efficiency of the government operations entrusted to them (e) to determine the methods, means and personnel by which such operations are to be conducted, and (f) to take whatever actions may be necessary to carry out the mission of the agency in situations of emergency."

* * * * *

AGREEMENT Between EAU CLAIRE BOARD OF EDUCATION And EAU CLAIRE BOARD OF EDUCATION EMPLOYEES

Article XV - MANAGEMENTS RIGHTS

Section 1. The Board shall have the right to direct the work force in the performance of necessary work functions. This power shall not, however, be exercised in a manner which will defeat the specific provisions or basic purposes of this Agreement. After due consultations with the Union the Board may promulgate reasonable work rules. However, the powers or authority which the Board has not officially abridged, delegated or modified by this Agreement are retained by the Board. Any dispute with respect to the reasonableness of such work rules may be submitted to fact finding pursuant to Section 111.70 of the Wisconsin Statutes after exhaustion of the grievance procedure set forth under Article V herein.

Section 2. Overtime shall be distributed equitably among all employees insofar as reasonauly practicable and consistent with the public interest.

Section 3. It is understood by the parties that every incidental duty and detail connected with each position or operation in any assignment or job description is not always specifically set forth therein. However, the assignment of new responsibilites shall be subject to the formation of reasonable work rules and wage evaluation.

Section 4. The Board reserves the right to discipline or discharge for just cause. The Board reserves the right to lay off for lack of work or funds, or the occurence of conditions beyond the control of the Board or where such continuation of work would be wasteful and unproductive. However, layoff, due to lack of work, or lack of funds shall be determined by seniority, if ability of employees is relatively equal. Whether the ability of employees is relatively equal may be an issue that may be submitted to fact finding by either party to this Agreement after all grievance procedures are exhausted.

* * * * *

AGREEMENT Between CITY OF MILWAUKEE and MILWAUKEE DISTRICT COUNCIL 48 AFSCME, AFL-CIO

C. MANAGEMENT RIGHTS.

1. Union recognizes the prerogative of City to operate and manage its affairs in all respects in accordance with its responsibilities, and the powers or authority which City has not officially abridged, delegated or modified by this Agreement are retained by City. The Union recognizes the exclusive right of the City to establish reasonable work rules. Any dispute with respect to these work rules shall not in any way be subject to advisory or final and binding arbitration, but any dispute with respect to reasonableness may be submitted to fact finding pursuant to Section 111.70 of the Wisconsin Statutes. The City will codify major work rules under the following time table:

Department of Public Works	by December 31, 1966;
Library and Museum	by July 1, 1967;
Other represented departments	by December 31, 1967.

2. City has the right to schedule overtime work as required in a manner most advantageous to the City and consistent with the requirements of municipal employment and the public interest.

3. It is understood by the parties that every incidental duty connected with operations enumerated in job descriptions is not always specifically described. Nevertheless, it is intended that all such duties shall be performed by the employe.

4. The City reserves the right to discipline or discharge for cause. The City reserves the right to lay off for lack of work or funds, or the occurrence of conditions beyond the control of the City or where such continuation of work would be wasteful and unproductive. City shall have the right to determine reasonable schedules of work and to establish the methods and processes by which such work is performed.

* * * * *

SKELETON OUTLINE OF A COLLECTIVE BARGAINING AGREEMENT WITH A TEACHERS ORGANIZATION

Section 1. Preamble (Statement of Purpose)

Example: "Whereas the efficient administration of the school system and the well-being of its employees require that orderly and constructive relationships be maintained between employee organizations and the School Board; and

Whereas, the signatories hereto desire to encourage a harmonious and cooperative relationship between the School Board and its employees; and

Whereas, it is the purpose of the signatories to this agreement to maintain and to improve upon the present high standards of service to the people of the school through a stable and amicable relaionship between the School Board and the teachers employed by the school district:

Now Therefore, etc."

Section 2. Recognition Clause

A clause recognizing local ABC as the exclusive bargaining representative of the particular employees in the bargaining unit. The classes of employees to be covered should be carefully spelled out, e.g. teachers, principals, coordinators. Others might be specifically excluded. If a question arises as to whether or not Local ABC in fact represents the employees, a WERB-held election may be requested. See Wis. Stats. Sects. 111.70 (4) (d). (Also to be excluded are members of a separate craft, supervisory employees, and confidential employees.)

Section 3. Management Rights Clause.

Intended to preserve management prerogatives. See Sec. 111.90 of the Wis. Stats. Also Federal Executive Order Number 10988. These represent "strong" management rights clauses. Also see Eau Claire Board of Education Contract and Milwaukee contract with Dist. Council 48 (1966) Wisconsin Legislature may very well be considering a "Management Rights" amendment in the next session. This should be watched.

Section 4. Union Security Provisions.

Note. Union shop, agency shop, etc. are probably illegal at the present time in Wisconsin. However, check-off for union dues, initiation fees, etc. is proper. Sec. 111.06 (i) while not directly applicable should be followed, i.e. an individual authorization from each employee should be received. Also see 241.09 Wis. Stats. Also 111.84 (1) (f) pertaining to State Employees. A similar provision can undoubtedly be anticipated for municipal employees in the next legislative session.

Section 5. Work Period (Define "school year"; "work day"; "work week"; "lunch hours".)

Section 6. Overtime Hours; Additional Duties.

Section 7. Professional Improvement Requirements.

Section 8. Minimum Qualifications for teachers.

Section 9. Pay Schedules

Section 10. Manner of Payment (Pay Periods)

Section 11. Leaves of Absence-Types; Eligibility

Section 12. Age Limitations.

Section 13. Promotions and Transfers.

Section 14. Grievance Procedures. (Appeals - Possible referral to Fact Finding - of Advisory Arbitration - Compulsory Arbitration illegal with respect to matters which are by law to be decided by the Board).

Section 15. Health Insurance.

Section 16. Life Insurance.

Section 17. Saving Clause.

Providing that if any section or clause should prove to be invalid, the remainder of the contract shall not be affected.

Section 18. Vacations.

Section 19. Safety Committee.

Section 20. Union Activity.

Section 21. Binding Clause. (Absolutely essential) (See Section 111.70 Wis. Stats.)

This Agreement shall be binding and in full force and effect from July 1, 1966, until June 31, 1967. The terms of this contract shall continue in full force and effect from year to year, unless written notice is given by either party hereto to the other on or before thirty days prior to July 1 of each year thereafter requesting that the Agreement be amended or cancelled. If amendments are desired, such amendments shall be contained in such notice.

Closing Paragraph: "This agreement is made and entered into at Madison, Wisconsin, this 10th day of December, 1966.

Local 583
by: (Pres.)
(Sec'y)

School Board
by: (Pres.)
(Sec'y)

DEVELOPING A PERSONNEL ADMINISTRATION PROGRAM

by Dr. Glen Eye, Professor of Education
Department of Educational Administration,
University of Wisconsin--Madison

The literature indicates that part of the administrative concerns and responsibilities have dealt with the administration of personnel. The evidence is sufficient to make it unnecessary to argue the point as to whether personnel administration is an appropriate activity for the board of education and its designated administrative and supervisory officers.

Personnel administration has never been a particularly static type of program. In other words, changes in approach have characterized the development over a period of many years. The advent of professional negotiations or collective bargaining as being one of the instruments by which the teaching staff of school systems seeks to exercise greater controls over certain aspects of teacher welfare, economic status, and working conditions raises some new possibilities with respect to personnel administration. It is, no doubt, impossible at the present time to predict with much accuracy the specific kinds of changes that must be made in personnel administration programs as a result of the impact and practice of negotiations between the teaching staff and the board of education.

It seems quite clear in the State of Wisconsin that the negotiations arranged and conducted by the teaching staff through their organized agency do not include the superintendent of schools and other administrative and supervisory officers. Much uncertainity stems from the lack of clarity of position regarding the obligation of administrators and supervisors who properly choose not to be considered as outside the designation of professional personnel. Differences of opinion probably can be resolved by people of good will who are willing to settle down to the serious business of definition. The task of definition is not assumed to be part of the responsibility of this presentation.

Personnel administration deals with some rather clear-cut and easily identifiable areas of tasks and responsibilities. I will deal here with five of them. There is no suggestion that these are the only five or the best five. They are important and, because they are important, it seems appropriate to use them for explanatory purposes in this presentation.

Employment Procedures

Personnel administrators, whether so designated or whether we look at personnel administation as a funciton of many administrative and supervisory officers, have some responsibilities in the employment procedures. A standard list of tasks under this category are: the announcement of a vacancy, the drafting of job specifications, the consumation of an appointment, the making of the assignment, the evaluation of the person assigned, and decisions with respect to retention or dismissal. It is impossible to make the categories of specific items mutually exclusive; for this reason the matter of compensation is not included under "employment procedures" because it will be dealt with separately.

There are specific kinds of performances or behaviors that have characterized the handling of employment procedures. Gradually, the announcements of vacancies have included more than the one-line notice to the placement agency indicating that a position by title is open. There are varying levels of specificity by which the vacancy can be declared. It is a fact, however, that the placement agencies or others seeking to assist a local school system in locating candidates for positions can perform better as screeners if the announcement of vacancy includes something more than merely the title of the position. The more that can be reported about the specific kinds of expectations allocated to the vacant position improves the chances of identifying those people who are considered qualified for such a position.

Some school systems draft job specifications to accompany the announcement of vacancy. The job specification indicates the kind of person who, in the judgment of the local administrative staff, would best be suited to the demands of the position. It is at this point that more help might have been used in the drafting of these specifications. Administrators alone may do reasonably well but they probably could do much better with the help of supervisors, principals, and teachers. Teachers, in general, either have not paid enough attention to the process of selecting their colleagues or the administrative officers have not made such an opportunity available. This issue cannot be settled by argument and it has been researched very little, consequently, we can only speculate as to where the responsibility lies for the lack of expression on the part of teachers regarding the qualifications of potential colleagues.

The appointment of a candidate is a very important step in the assurance of a quality educational program in the local school system. Technically, the appointment is a legal act. It is entering into a contract. State laws are very clear on the fact that the board of education must be the only contracting agency for the local school district. Thus, it would seem that the formal act of appointment need not be a matter of great concern in the adjudication of rights and privileges between negotiating groups and boards of education.

The assignment of the teacher becomes an important professional responsibility in that a misassignment is almost certain to provide the school district with less than satisfactory service and, at the same time, place the new teacher in a situation where a high level of accomplishment and success may not be probable. If the assignment of teachers is to be a matter for negotiation, the very serious problem must be raised as to what kind and how much information should the assigning officer have before committing a teacher to a particular position with its unique expectations. Certainly, an overall view of the school system is important. The technical ability to fit the person to the job must be present. There is no assurance that simply taking the prerogative from one agent or group and awarding it to another will improve the probability that the task will be done with greater expertise. At the present time, it would appear that administrative and supervisory officers possess the superior information and ability to perform this important administrative act.

The evaluation of the performance of professional employees is a service that every board of education has a right to demand. If it becomes a matter of negotiating whether evaluation shall take place, then, negotiations can do nothing other than to build in the probability of mediocrity in teaching service. No truly professional groups would choose to do this. If, in protecting themselves against certain undesirable practices, teachers are inclined to do away with the evaluation in toto, then, the solution has done nothing other than to render the supporting public and the children of a district help-less in the face of lack of agreement between teachers and administrators. Much needs to be done in sharpening the analytic and appraisal procedures that constitute the evaluation of teaching effectiveness. Much has been done and much more needs to be done, but lack of agreement must not be permitted to constitute solution.

The last-named task under employment procedures is that of retention or dismissal. This must be closely allied with the processes of evaluation. If the teaching group chooses to appropriate to itself the responsibility of evaluation, it must accept at the same time the responsibility for recommending retention and dismissal. The acts of retention and dismissal require specificity of information and the courage of confrontation. Professional organizations tend to render service to dues paying members without making proof of competence a condition of membership. The urge to maintain the "establishment" and the voluntary nature of membership renders the organization incompetent to judge the quality of members' performance. Without the facility for evaluation, actions on retention and dismissal must not be assumed. The record of associations and federations to date would indicate a complete absence of an inclination or ability to discipline within its own ranks by expressing the recommendation of dismissal; as a matter of fact, the inclination has been to defend regardless of the merits of the person. Organizations properly may influence the procedures but not the substance of evaluations.

Inservice Improvement

The second important aspect of personnel administration is that of providing the opportunity as well as the necessity for continuous improvement on the job. Any assumption that a person at any point will have learned all that he is to teach is simply to guarantee that eventually pupils will be "drinking from the stagnant pool". The acceptability of inservice level improvement cannot be left completely to self judgment. If this point of view is accepted, then, some agency must be responsible for the alter judgment required to give assurance of improvement.

Each of the items presented from this point will not be treated in the same detail as was the case in the category of employment procedures. Time will not permit such an extended analysis. In each of the following major categories, however, there will be a listing of the kinds of tasks that normally have been included in functions of personnel administration with a brief reference to their relationship to the practices of negotiation.

The tasks involved in inservice improvement may be considered the following: professionalization, stimulation, study and research, clarity of expectations, evidences of development, and promotions. In most of these it is clear that the judgment of more than one agent is needed to provide an improved status. Professionalization is something that must happen to the individual. It can be assessed. The employing officers in a school district have the right to expect a high level of professional conduct not only with respect to the interactions with the people of the community and the pupils but also between and among the professional employees of the school district. The new opportunities now for negotiation need not reduce the probability of high expectations of professional conduct on the part of teachers. Certainly any violation of an accepted code of ethics should not be tolerated.

The misappropriation of information about pupils' grades by teachers should be subjected to penalities similar to those applied to administrators for the misappropriation of funds.

The members of the profession should have the opportunity - as well as the inclination - to establish the criteria of professionalization and to be provided the opportunity to achieve them. It must never become, however, a matter of mutual exclusiveness. The teachers must be willing to join in this consideration with supervisors and administrators and all professional personnel must be willing to face the board of education with respect to acceptable conduct.

The matter of stimulation and evidences of development have been subjected to substantial research effort. There are known ways of stimulating people to want to accomplish their tasks. There are known behaviors that can be identified among people who want to escape the commitment to the task of improvement. There are known ways of clarifying the expectations placed upon every member of the school organization, from the school board through every level of professional employee personnel. The time is past when the "poor dear" teacher or the "overloaded" administrator may woefully report within their own groups that the public does not appreciated how hard they work nor how much they sacrifice. The hardness of work and the extent of sacrifices is no longer elements of trade or of conviction. Everybody works hard if you ask that person to make the appraisal. Everybody makes sacrifices if you ask for self judgment. Consequently, we must now be much more mature and objective in facing up to the expectation placed upon each of us. Members of the board of education are as entitled to high sympathy on the part of the professional employees because they take a heap of abuse with little if any compensation.

The people of a community do not ask teachers to extend beyond their contracted obligations except as community members who ought to exhibit the characteristics of supportive citizens. To put this part of the life of a teacher and other professional employees to the processes of negotiation is nothing other than to request a different type of citizenship than that experienced and enjoyed by most members of a community. In the past, professional educators have sought to eliminate the second-class-citizen status that has characterized the attitude of lay people toward the teaching profession. We now must do more than deplore. We must not fall into the trap of assuming that we have a right to demand the respect of a professional while we negotiate the working day and condition of an unskilled laborer. Improvement must not be subjected to an hourly schedule - it, rather, must be subjected to the necessity of overt performance which can be identified and assessed. Promotions and salary increases, then, must be the product not of political machinations, not of negotiation, not of expediency, but rather of decisions made on the basis of the evidences of competence on the part of those who deserve them. In other words, the processes but not the decisions are the proper subjects of negotiation.

Work Arrangements

Under this category, the tasks which might be included are: load evaluation and adjustment, transfers, classroom interruptions, and environmental conditions. The teaching profession long has been burdened with the idea that, if a teacher works the same number of hours as another teacher, they have equal loads. An English teacher with five classes and a total load of 150 pupils does not have the same load as a Latin teacher with five classes and a total of 60 pupils. There is scarcely any phase of life and of the work-a-day world that load balancing is so simplified. The members of the teaching profession seem to think that equation of effort can be reduced to one or, at least, a few simple factors. Much more research needs to be applied to load evaluation. There is no use to do this research unless the administrative, supervisory, and teaching members of the professional organizations are willing to accept the results of the findings of research. To do less than this is to permit negotiations to defeat the very basis of equity that ought to be sought by the board, administrators, supervisors, and teachers.

The report has come to me, but is yet unverified, that in a neighboring state some of the school systems now have declared that transfers of teachers from one school to another cannot be made without the approval of the teacher organization's executive secretary. If this is true, then transfers have been taken from the usual array of administrative responsibilities. This, in itself, is not to be deplored providing it is justified. The disturbing part of this possibility is that the insertion of an agent not responsible for the administration of the school shifts the prerogatives of making decisions regarding transfers of teachers to a new level in the bureaucratic hierarchy. Strangely enough, this new level is non-certificated administrative personnel. It seems hazardous to begin such insertions in states where certification has been supported by boards of educations, administrators, supervisors, and teachers and, thereby, vacating at the urgency of one group in the organization the prerogatives of certification. The most disturbing part of this is that if transfers can be made the items of negotiation and of control by an employee of the teacher organization, then, it is conceivable that eventually the erosion taking place on administrative prerogatives will result in the elimination of certificated administrators and supervisors completely.

It may seem that the above statement is an extreme fear - and so it is. On the other hand, between this extreme and the initiation of a direction there are many stages any of which could be undesirable and many of which might result in some brand of anarchy or a new type of administration in the school organization. It would seem somewhat ridiculous to assume that persons who have spent a lifetime studying administrative procedures should gradually be displaced by those who have had no such training but who have come into the situation in somewhat of a political officer type of representation and hoped-for control.

If the matter of working conditions and classroom interruptions constitute a type of bedevilment of the teacher and must come to teacher action, it does so because of the neglect of administrative officers. Most situations falling in this category can be researched. Valid and objective data will provide leads to proper corrective action. Such choice of action should represent the joint efforts of administrators and teachers.

Compensation and Evidences of Accountability

There will be no effort to separate these two items although each one might be discussed at considerable length. Compensation deals with salary policy, non-teaching tasks (both professional and non-professional), salary extensions (fringe benefits) and "moonlighting". All of these are appropriate items for consideration in administration and in negotiation. The point here is that there should be no demand on the part of one group that salary policy and decisions be influenced and dominated, but that evidences of accountability should not become the objects of discussion and decision. At the present time there seems to be an inclination for negotiations to be more or less one-sided, namely, the teacher's side.

Negotiation has been long overdue in coming. Personally, I am glad that we have negotiation as one of the phenomena with which we must deal in the profession of education. It came, in part, because of abuse, misuse, and neglect on the part of boards of education and school administrators. This, however, does not justify going overboard in the direction of autonomy of accomplishment on the part of the teacher group. If salaries are to be subjected to negotiation as well as other benefits that may accrue to the teaching staff, the expectations that a board and administrators have a right to place upon teachers are proper subjects of negotiation. Professional activities and extra-contractual work (commonly called "moonlighting") must become a part of the negotiating subjects on the part of the board of education and the administration. To say that the teachers ought not to be held responsible for the negotiation of expectation to be placed upon them is to say that they are demanding things of boards of education and administrators to which they are not willing to subject themselves.

It is impossible to separate the considerations of compensation from those of accountability. Accountability in teaching has been avoided because it is said that when a person is licensed as in any other profession, the person should not be heckled about keeping up-to-date. The comparison usually is made with the licensing of physicians and lawyers. It must be remembered that, when a profession dedicated to public service as compared with professions almost exclusively considered as private enterprise, certain conditions are going to be found not comparable. We may as well settle down to the serious business of finding out how these controls can best be established and adjudicated in the public service sector.

Accountability, then, becomes the determination of the decision about appropriate evidence of performance, the collection and organization of data regarding performance, the criteria of effectiveness which will lead to judgment, and the jurisdictions over each of the steps in this accountability process. Accountability has not been given its proper attention. It can result in great benefits for the controlling board and the administrative-supervisory group as well as for the teachers. We have no right to assume that a teacher may or does go into the classroom, close the door, and consider that the public may be damned. Any public employee must be responsible to the public which employs him just as any private enterpriser must be accountable to either the people who hire his services or buy his goods or that participate in the licensing or the privilege of being in a particular profession or business. Accountability can be a joint enterprise and should be subjected to negotiations. I would urge, now, that the teacher group demand negotiations regarding evidences of their own accountability without waiting for an irritated public to demand of its board of education and, in turn, of the administrative and supervisory staff to impose upon teachers the systems of accountability that an employer has the right to demand.

A Principle of Inter-dependence

There is a principle which states that in any complex enterprise there 1) must be a differentiation of work assignment, 2) must be a clear description as to what each element in the organization shall do, and 3) must indicate the nature of the relationships between the levels in the hierarchy. This is not exclusively the principle of bureaucracy although bureaucracy can come under this principle. This is the principle of group action. Schools cannot operate without group actions. One group must not make minorities out of another to the point of abuse as in the instances of administrator domination, special interest groups in the community, or a small militant segment of a teachers organization. This has happened in the past and it may happen again in the future but it is a violation of the principle of inter-dependence. The things which may make possible the acceptance and the rewards of this principle are: a clarity of expectations, a recognition of the contributory functions of each member of the organization, and an acceptance that each member shall recognize his supportive functions.

The contributory functions represent those things that a person does that constitute his share of a larger task. Reference was made earlier to teacher employment. In the employment process a superintendent must perform certain types of acts. Principal and supervisors do not repeat those acts but they perform others that contribute to the total task of teacher selection. It is suggested, further, that teachers ought to be more concerned with the selection of their colleagues. They should indicate in a formal and orderly way the kinds of considerations that they would choose to have recognized in teacher employment. In this way, each level in the school organization has contributed to teacher selection.

The supportive functions represent those which are supportive one of another and they are primarily attitudinal in nature. One group cannot set out to destroy another by evil reporting or attacks and expect themselves to go unscathed. Professional workers have an ethical responsibility not to undercut another of their professional group. They must be supportive of any other member of the group when attacked or else accept the responsibility of bringing together the accused and the aggrieved.

Another type of concern in the principle of interdependence is that of knowledgeability acquired in decision making. Recently, I heard the secretary of the School Board Association state very carefully and very effectively the position of school boards in a discussion group of teachers who were on negotiating committees. The questions asked by the teachers indicated so clearly that they did not have a faith that board members could sit down with them and express knowledgeable concerns about what goes on in the classroom. The inference was made that board members never come into the classroom; therefor they are not sufficiently knowledgeable to make certain kinds of decisions. Whether or not this position is accepted makes little difference at this point. The converse point, however, must be recognized that, if teachers find that board members are not sufficiently knowledgeable to be making decisions about instruction, teachers may not be sufficiently knowledgeable about the economy of government, tax structure and budgetary procedures to be demanding the privilege of joining in these decision-making areas. The rights of both sides of the table must be acknowledged.

The Power Concept

In each organization there are individuals built into the organization by title, by function, and by ambition who hope to exercise an influence or power within that organization. There is an institutional purpose and that purpose must be well represented by the board of education. Teachers may be more verbal regarding the specifics of the purposes of instruction but the board of education is expected to express the wishes of the lay public. A professional organization also has a purpose and it must speak for the best interest of the professional members which it represents. There should never come a time when either side loses its ability to exchange ideas and to compromise with respect to their common interests, - employment procedures being one of these among many others. Failure to have the capacity of compromise means that equilibrium in the organization is lost and that disequilibrium will be the dominant stiumlator. Disequilibrium stimulates certain types of responses in the persons who feel ill at ease with the loss of equilibrium. Some of the aspects of adjustment are destructive - not only of themselves but those who represent the organization. We must be willing to talk about the existing power concepts and recognize that anarchy must not prevail.

The sanction potential, both for the board of education, the administrators and the teachers must be the subject of open conversation. Veiled threats have no place in the public enterprise. The threat of new or revised laws that will withdraw the privileges of one or the other have little productivity. The implication of a strike as a vehicle of teacher-control needs to be discussed now rather than at the times of stress. The calendar with respect to when considerations are made and the ethical responsibilities of holding to agreements for a given period of time must be the subjects of conversation and agreement.

Absolutism is antagonistic to compromise and it must be dealt with as such. Public acceptance constitutes the legitimization of the positions of both sides of the table when personnel programs are being considered and negotiations are accepted as a part of the total phenomena.

GRIEVANCES

by Henry C. Rule
School Board Member
Oak Creek, Wisconsin

We hear a great deal about preventive programs - accidents, medical, maintenance. Let us add one - a preventive grievance program. The first step in a preventive grievance program is to take special care in screening applicants. Establish regular communication lines with your teachers, both at work and at their homes. Have programs for boosting teacher loyalty to the school system and the community. Keep records of good performance by teachers. Be firm but fair in discipline. Be constantly on the alert for any complaints of favoritism. Have clear and well distributed work rules making sure that the wording is not in violation of your labor agreement. Whenever anyone connected with the school system hears any rumor of dissatisfaction, don't let it fester. Straighten it out before a grievance is filed.

Many school board members are seeking answers to questions relative to all facets of employee/employer relations. One such question is - will schools have to excuse employee representatives from their duties for the purpose of investigating and processing grievances. Section 111.70 (3) (2) of the Wisconsin Statutes provides the prohibitive practices by municipal employers. The W.E.R.B. could, I believe, interpret if a school board refuses to excuse employee representatives from their duties for the purpose of investigating and processing grievances, to have committed a prohibitive practice within the meaning of the statutes by interfering and restraining the employees' representatives from the right of conference and negotiations with their employers. The contract between the school board and the employee representatives should clearly and concisely set forth the procedure to be followed. In industry, of course, the contract provides for the handling of grievances during working hours. The question as to who pays for the lost productive time for representatives attending grievance meetings varies in different labor agreements. Some contracts provide that if the employer calls a meeting of a grievance committee, the employer will make no deductions for the time spent in such conferences. On the other hand, some union contracts provide that where the union calls a meeting with representatives of the employer on grievance matters, the employer will deduct the time spent in such conferences from the employee's salary and the union reimburses the employee for such lost time. The philosophy back of this practice is that if the union must pay for lost wages the union will not bring unwarranted, petty and frivolous grievances to the employer, and, therefore, acts as a deterrent to many grievances.

Many labor agreements between industry and labor have a regularly scheduled monthly or bi-monthly meeting of the union grievance committee and the company, and, unless some emergency exists, grievances are presented only at the regularly scheduled monthly or bi-monthly grievance meetings. Some industries do not deduct for lost time in these instances operating on the philosophy that such meetings are informal, and in many instances improve the morale of the employees.

Another question board members are asking - will the provisions of private industry contracts carry over into the schools. I believe, in all probability, for the most part they will. However, this carry over will take a considerable length of time. It took organized labor in private industry from 1935 with the passage of the Wagner Act until now to negotiate all the provisions in private industry contracts that are found today. The public employee in Wisconsin did not receive the right to organize and bargain collectively until 1962. We must remember that many of the employee representatives are just as inexperienced in the art of labor relations as members of school boards. I believe that if a careful study is made of the grievance procedure practices of private industry this can be helpful in establishing grievance procedure between employee representatives and the school board.

Management Function

The entire contract between the labor organization and the school system should be given very careful consideration and particularly what is known as a "management clause" or "management functions" so that the labor organization cannot, through the grievance procedure, usurp the rights of the school system to manage, direct the working force, scheduling, methods used, right to decide the number or employees needed, the right to use improved or changed methods, the right of the school district to make and alter from time to time rules and regulations to be observed by the employees providing that such rules and regulations are not inconsistent or in conflict with the provisions of the labor agreement. There also should be included in the agreement the functions of the union.

A grievance is any difference that may arise between an employee and his employer with respect to any employee/employer matter regardless of whether or not the complaint is covered in a collective bargaining agreement. This is known as broad coverage. The broad coverage grievance provision in a labor agreement opens Pandora's Box for the filing of frivolous, petty and unwarranted complaints.

The other type of grievance provision in an agreement is a narrowly defined and restricted grievance provision limits the grievance to the interpretation and application of the provisions of the agreement. I would most seriously recommend that the collective bargaining agreement contain the narrowly or restricted grievance procedure for schools employing sixty or more teachers.

The narrow concept indicates that the agreement contains the entire agreement between the school system and the employee representatives, and the board should not then be compelled to entertain a grievance unless the agreement has been violated. If the agreement does not contain the restricted version, you may be confronted with a problem that the agreement is not the entire agreement between the parties. An agreement that is not the entire agreement leaves the door wide open to grievances based on past practices, including past practices that may have been inaugurated long before the employees selected a representative.

In setting up your grievance procedure, the agreement should provide that either the organization representing the employees or individual employees or the administrators of the school may file a grievance.

Steps In The Grievance Procedure

There are two lines of thought relative to processing a grievance - one oral and the second the written, signed grievance. I would recommend a combination of both versions.

The first step to be, the aggrieved employee, with or without his representative, attempts to orally settle the differences with the principal of the building. This provides informal flexibility that is conducive to settling the dispute. There is an element of danger in this first step of the grievance procedure. The principal may settle the grievance, and in so doing establish a precedent. If extended to the school system as a whole, the matter would not be in the best interests of the system. Principals are human, some will be firm - maybe too firm. Some weak, and will make concessions that should not be made. In order to avoid something of this nature occurring, provide in the agreement that, after the principal has had the informal oral conference with the employee, he shall within three working days give his answer in writing to the employee or his representative, as the case may be. During the three day period the principal has ample time to contact other persons in the school system - the Superintendent of Schools, other Principals, or the Business Manager and appraises them of the grievance, and also as to how he proposes to handle the problem. This procedure is not uncommon with large industrial employers, and for the same reason to avoid establishing undesirable precedents by departments resulting in a hodge podge of industrial relations policies.

When the employee or his representative receives the written answer from the principal, this is the end of step one of the grievance procedure. The employee or his representative may then initiate step two of the grievance procedure in the event he is not satisfied with the principal's decision.

The agreement should provide for a reasonable time for commencing the second step of the grievance procedure. Also a time limit beyond which the grievance cannot be appealed - a period of from ten to thirty days. At the second step of the grievance procedure, the grievance must be reduced to writing and signed by the grievant. The grievance should be on an agreed upon form clearly stating all of the provisions and sections of the agreement alleged to have been misinterpreted or violated, time of violation, the people involved, and the relief sought. The signed grievance is submitted to the Superintendent of Schools with a copy to the principal involved. The Superintendent of Schools, or a person he may designate to represent him, should within five working days conduct a hearing with the aggrieved employee and with or without the employee representative. The Superintendent of Schools, or his designated representative, should within three working days submit his decision in writing to the aggrieved with a copy to the employee's representative, if a representative is present at the hearing. Step 2 of the grievance procedure will have then been completed. Failure to settle the grievance in the second step, either party may request in writing that the grievance be submitted to the school board.

The request by either party to submit the grievance to the school board should not be less than five calendar days prior to the school board's scheduled meeting. If within sixty calendar days after the Superintendent of Schools or his designated represented makes his written decision and neither party files an appeal to the school board, the matter should be deemed close.

The school board upon receiving a request to appeal the decision in Step 2 of the grievance procedure notifies the parties as to the date, time, and place the board will conduct the hearing. The board after hearing all evidence and arguments reduces its decision to writing and submits copies to the interested parties.

Arbitration Of Grievances

Now the $64.00 question! Should the grievance procedure end with the decision of the school board, or should the grievance procedure provide Step 4 - binding arbitration? If it is decided to include final and binding arbitration in the agreement, the agreement should contain a provision that prior to arbitration the parties jointly petition the Wisconsin Employment Relations Board to provide the parties with mediation services.

Here we have two lines of thought and philosophy. One that a school board cannot legally agree to binding arbitration, and the other quite simply that a board may agree to final and binding arbitration. It is my opinion that a school board cannot agree to binding arbitration in a dispute which involves the negotiations of the first or initial labor agreement, or which involves the negotiations of a demand to extend, modify or amend an existing agreement, or a dispute resulting from negotiations to enter into any subsequent new agreement. In other words, it do not believe that a shcool board can delegate its statutory authority to an outside party on budget matters. I do believe, however, that a school board can, if it desires, agree to arbitrate grievances arising under an agreement in force and effect providing that the grievance procedure in the agreement is narrowly defined, and providing, further, that the agreement spells out the jurisdiction of the Board of Arbitration.

The jurisdiction of the Board or Arbitration should be spelled out along the following lines: The Board of Arbitration shall not entertain any issues or arguments not raised in writing in Steps 2 or 3 of the grievance procedure, nor have any power to alter or change any provisions of the agreement, or to substitute any new provisions for any existing provisions, nor to give any decision inconsistent with the terms of the provisions of the provisions of the agreement. Nor shall any past practices or customs become binding unless they are in writing and signed by a school board and the employee representative. The Board of Arbitration should have no power to extend the duration of the agreement, to add terms or provisions thereto, to arbitrate a dispute concerning a general wage adjustment. The Board of Arbitration to which the grievance is submitted shall have jurisdiction and authority only to interpret and apply the provisions of the agreement insofar as it shall be necessary to the determination of the grievance.

Grievance Procedures In Private Employment

Labor agreements covering private employment containing a no strike - no lockout clause, almost without exception, also have a provision for final and binding arbitration as the terminal point of the grievance procedure. On the other hand, agreements that do not contain a no strike - no lockout provision seldom, if ever, provide for arbitration. Strikes and lockouts in public employment in Wisconsin are prohibited by statute and substitute for the right to strike with mediation and fact finding.

Arbitration as an institution is not new, having been in use many centuries before the beginning of the English Common Law. Arbitration is a form of our judicial process. For the most part hearings are conducted in much the same manner as a court trial. A verbatim record is made, witnesses are put under oath, the rules of admissability of evidence generally apply, and at the conclusion of taking of evidence the parties are given the opportunity to make oral arguments or file briefs with the Board of Arbitration. Arbitration is not the place for the amateur.

In a school system employing less than fifty or sixty teachers, I think the grievance procedure should be less complicated and not as formal as in the larger school systems. The agreement should contain the narrowly and restricted type of grievance procedure in any event. The grievance procedure to provide the aggrieved employee may, with or without the representative, attempt to orally settle the differences with the principal, or whoever is responsible for administering the affairs of the school, or schools. If the parties fail to settle the dispute, either party may within a prescribed time limit appeal to the school board. One thing that must always be remembered regardless of how formal or informal, or how few or how many steps you have in your grievance procedure, avoid, if possible, getting backed into an uncompromising position. Employer and employee relations generally are a series of both side compromising their positions.

Let us use an example of a grievance and how it is processed. The agreement reads as follows: "A maximum of two days will be allowed in each case of the death of a father-in-law, mother-in-law, sister-in-law, brother-in-law, grandparent, grandchile, son-in-law, or daughter-in-law." The teacher attends th funeral of his wife's grandfather. The school deducts two days pay from the teacher's paycheck. The teacher representative complains to the principal. The principal hears the oral argument and submits a written statement denying the pay for the two days, giving as the reason for the denial that Grandpa was not the teacher's grandfather. The teacher representative then prepares a detailed grievance in writing stating the denial of pay for the two days was in violation of the agreement relating to the excused absences plan, the relief sought (two days pay), and it is submitted to the Superintendent of Schools. The Superintendent of Schools denies the grievance, and the teacher representative appeals to the school board. The school board denies the grievance, and a mediator from the Wisconsin Employment Relations Board is called in. He cannot settle the dispute, and they go to arbitration. How the arbitrator finds in this case is beside the point. The point is if the agreement had read "a maximum of two days will be allowed in each case of death of the employee's grandparent," all the expenses, the time and aggravation would have been avoided.

"WAGE & SALARY ADMINISTRATION--DEVELOPMENTS ATTENDANT TO EMPLOYEE NEGOTIATIONS."

by Wallace E. Zastrow
Director of Field Relations
Wisconsin State University--Whitewater

I realize that schools wish to have a character different than that of a business organization. But whether they like it or not, schools must accept the fact that just as in industry, in order to produce a good finished product, their can be no breakdown in the four agents of production - land, labor, capital, and management. Land being the physical plant; labor, the teaching force and non-certified employees; capital, the finances with which to operate; and management, the administrative staff and board of education. We might add that the quality of the raw material (students) will also have a bearing on the finished product.

With the economic situation, cost of living, high rate of employment, and shortage of teachers in many subject areas, we have probably only seen the beginning of the growing militancy among teachers in seeking a greater voice in terms of employment, working conditions, and salary negotiations. It is reasonable to expect professional people to be determined in seeking their goals. That this situation, together with the need for more buildings, expanded programs to keep up with the space age, and more capital expenditures, will create bigger and bigger headaches for administrators is putting it mildly.

Many of the present day administrators have had only a restrictive set of experiences, and this is certain to have an effect on solving many of the problems to arise. When a school in any level runs into serious trouble involving people, the basic cause of the trouble almost invariably is the same: violation of fundamental principles of administration. Their are certain universal principles that do not differ, whether they be the administration of a transportation company, a drug store, a football team, a high school or a city school district. One of the things a student of personnel relations learns early is that, "Good personnel relations begins with the initial interview." Dr. Edwin J. Brown of Santa Clara University, writing in, The American School Board Journal, September, 1966, sums up these universal principals of administration as follows:

> Authority to act must be given with responsibility. The administrator delegating responsibility must relinquish a corresponding portion of authority.
>
> Detail must be clearly differentiated from policy. Errors in detail are insignificant; in policy, devastating.
>
> Special training and abilities must be utilized for the greatest good of all.
>
> Duties and functions must be clarified in all actions except those of detail.
>
> All school machinery must serve the pupils. Machinery which now serves no purpose, although it once may have, must go.
>
> Any administrative unit is no stronger than its greatest weakness.

A good administrator sees strengths - and weaknesses.

The principle of relative values must act as the determinant in major decisions.

The individuality of students and faculty members must be preserved. Administrative decisions must not submerge the individual.

I would like to review for you some examples of practices which I have knowledge of and which are practices bound to lead to unrest and dissatisfaction.

The case of the large national industry that refused to give their employees a pension program that would provide $50 a month upon retirement from the company, while at the same time they voted a $50,000 a year pension for the executives when they retired.

The school system that grants permission to open the schools gymnasiums and auditoriums for community recreation programs, but makes no provision for paying the custodian for the extra work involved for him.

The school system that grants extra pay for extra duties, but does it without any scientific basis or realizing the implications this one decision will have on similar situations in the future.

The school system that does not have a written policy on being absent from the job for personal reasons.

The school system that requires teachers to perform baby sitting services that could be handled in another way.

The school system that does not recognize that next to a teacher's salary, the next most important thing to a teacher is status in the community.

Administrators are not always to blame for some of their problems. Sometimes the administrator must break every rule of good personnel relations because of the laws governing school expenditures. An example of this is publishing teachers salaries in the newspapers. In industry the most closely guarded information next to patents and copyrights are salaries. Industry knows that making employees salaries public is one of the fastest ways possible to create unrest.

The Salary Schedule Contributes to the Welfare of the School System.

Two school districts may have equal starting salaries and equal maximum salaries; but, in one school district, the schedule and the means by which it is developed may have a healthy effect upon (1) recruitment, (2) retention, (3) in-service growth, (4) staff morale, and (5) staff quality, while the schedule of the other school district makes no positive contribution to the welfare of the school system.

Authorities agree that a sound salary plan should include a number of widely recognized factors. The National Education Association has adopted a policy statement comprised of eight essentials. Following are the eight essentials:

1. A professional salary schedule should be based upon preparation, teaching experience, and professional growth.

   These three elements are the essentials for determining the qualifications for hiring a teacher or for advancing him upon the schedule. Therefore, the professional salary schedule should be based on these elements, and teacher placement on the schedule should be based upon an objective determination of these three factors as applied to the individual teacher or applicant.

2. It should provide a beginning salary adequate to attract capable young people into the profession.

   Any starting salary must be competitive in the market for graduating teacher trainees. If teacher schedule are not competitive with the average salary offered college graduates entering other occupations, it is obvious that we must, on the average, settle for less than best - even for less than average college graduates.

3. It should provide annual increments sufficient to double the beginning salary within 10 years, followed by continuing advances.

   Why should it? What is the standard for saying this? Simply that in other occupations employing college-trained individuals, the typical employee does double his starting salary in 10 years. We are not being competitive in the talent market if we do not make this possible for teachers.

4. It should be developed cooperatively by school board members, administrators, and teachers.

   If all parties affected by the schedule participate, this promotes the kind of understanding and mutual resolving of questions that contributes to the best staff morale.

5. It should permit no discrimination as to grade or subject taught, residence, creed, race, sex, marital status, or number of dependents.

   In short, only those factors given earlier as directly related to the job of teaching should be considered in determining salary--preparation, teaching experience, and professional growth. Note that all of the discriminatory factors listed in point 5 have, at some time, been determinants of teacher salaries. Superintendents and boards of education, to their credit, have largely eliminated them. Only in rare instances are any of these discriminatory features still found in current salary schedules.

   However, as late as 1961, the state of New Jersey enacated a law barring school districts from requiring residence within the district as a prerequisite for employment or promotion. This law struck down an actual requirement in the city of Newark. The professional associations have spearheaded the battle to eliminate these practices by working for laws or by carrying out educational campaigns.

6. It should recognize experience and advanced education through the doctor's degree.

   A schedule should include annual increments of sufficient size to make the recognition of experience of real value. The average number of such steps in schedules for the bachelor's degree is currently about twelve.

   The salary increments provided in recognition of college training beyond the bachelor's (or master's degree) should be sufficient to encourage teachers to continue their education after they have been employed.

7. It should recognize, by appropriate salary ratios, the responsibilities of administrators and other school personnel.

   By basing the salaries of all professional personnel on the teacher's salary schedule, two important things are accomplished: (1) a relationship between positions is worked out, so that the principals, department chairmen, and so forth are fixed, and (2) the school system is assured all personnel will receive equitable treatment in future salary adjustments. Once a satisfactory relationship between types of positions is worked out, it is fixed, and future salary adjustments will continue to maintain the established relationship.

8. It should be applied in actual practice.

   Unfortunately, there still exist instances of school districts with so-called paper schedules. They have been adopted, but teachers have not been adjusted to their proper levels on the schedule. Nothing could be more calculated to destroy morale or teacher confidence in their employers. Usually the only excuse given for such schedules is that they were adopted to attract new teachers. But what will happen when the word gets around that the board of education is not living up to its obligations to its existing staff?

Steps in the Development of a Good Salary Schedule

Developing a well planned salary schedule will include six steps: (1) Collect and analyze data (2) Determine goals (3) Translate goals into structure (4) Relate goals to financing (5) Provide transition plans and interim schedules (6) Interpret and report progress.

Collect and Analyze Data

1. Actual salary schedules in effect in surrounding districts.

2. Salary schedules in effect within a certain radius (for example, a 50 mile radius, if this is a possible commuting distance for teachers).

3. Salaries being paid to college graduates who come from colleges in your area, or from which you hope to recruit teachers.

4. Salaries being paid to college graduates generally, and what such graduates may expect to earn after 10 years.

5. Maximum salaries for teachers in other communities.

6. Number of teachers who left the school district to take other teaching jobs, and the difference in pay they received. (What would the district have had to pay to retain them?)

7. State salary law, if any, and any changes that must be considered to see if local policy conforms.

8. Number of teachers at each step of the current schedule, and on each training level. This is necessary for computation of costs of specific salary changes.

9. Trends in size and type of salary increases that have been made in surrounding districts, in the state, and nationally for the past five years. This is necessary for forecasting the salary level with which you must compete in the year ahead, since most other salary schedules will also undergo changes.

10. Trends in the rate of increase in assessed valuation of property in the district for the last five years, along with any factors that might alter the trend. This will enable you to estimate the amount of increased revenue the school district will have from the current tax rate, and also what an increase of one cent or one mill would bring in additional school funds.

11. Recommendations of state and national professional associations and leading authorities on personnel policies as to the most desirable structure for salary schedules, so that these professional opinions may be taken into consideration.

12. The items of most concern to teachers locally, as indicated by questionnaire survey taken by the local teacher association.

Sources of data

The state teachers' association generally is the best and most reliable source of data on salary schedules actually in effect throughout the state. An inquiry to your local competing districts may yield further information about contemplated changes for the year ahead.

The college placement offices in the colleges in your state may keep statistics on the salaries being offered to graduates from their schools.

National Education Association reports on salary schedules for teachers on a national basis pull together all schedules for large districts, medium-sized districts, and so forth. These are the most comprehensive and reliable reports of actual salary schedules nationwide. Other NEA reports show trends in average salary, average salary by states, rankings of states, and other useful information.

Your local personnel office must supply data on teachers who leave and where they went, in order to compute the probable cost of retaining them.

The local municipal government or the county government is the source of data on assessed valuations and any changes in assessment practices.

State and national professional associations have some excellent statements on goals for teachers salaries and ideal salary schedule structures. The NEA salary Consultant Service has developed a series of publications with concise illustrations of the mechanics of salary schedule development, cost computation, and so forth.

Types of Salary Schedules

When the salary committee can agree to present a schedule in terms of relationships, not of dollars, with a starting salary indicated by the factor 1.0, and for a teacher with 10 years of experience and advanced training indicated by the factor 2.0, it has an index salary schedule.

The schedule expresses annual increments for each year of experience, 6 percent for teachers with bachelor's degrees, and (at most steps) 7 percent or 8 percent for teachers with more training (goal 3).

The schedule is structured to provide incentive for undertaking advanced study (goal 4): (a) Since the first level of preparation (B.A.) cuts off at 1.60 of the starting salary, the incentive is great for an ambitious teacher to move from the bachelor degree level to at least the M.A. level. (b) Though the difference between the beginning salary for the bachelor's degree and the master's degree is relatively modest (.1), the size of the differential increases each year. By the tenth year, when the teacher with a B.A. is making 1.60 percent of the base or beginning salary, the teacher with an M.A. is making 1.88 percent. (c) Annual increments encourage teachers to continue advanced study.

Step	B.A.	M.A.	M.A.+30	Dr.
0	1.00	1.10	1.20	1.30
1	1.06	1.17	1.27	1.37
2	1.12	1.24	1.34	1.44
3	1.18	1.32	1.42	1.52
4	1.24	1.40	1.50	1.60
5	1.30	1.48	1.58	1.68
6	1.36	1.56	1.66	1.76
7	1.42	1.64	1.74	1.84
8	1.48	1.72	1.82	1.92
9	1.54	1.80	1.90	2.00
10	1.60	1.88	2.00	2.08
11		1.96	2.08	2.16
12		2.00	2.16	2.24
13			2.20	2.30

Note that all steps are based on the bachelor's minimum, however, so that as this must be increased for competitive reasons, all steps and all levels rise proportionately. With a $5,000 starting salary, a 6 percent increment is $300, and a 7 percent increment $350. But, if the starting salary rises to $6,000 the 6 percent and 7 percent increments become $360 and $420.

Advantages and Some Cautions about an Index Schedule

a.) Once an excellent index structure is worked out, reflecting all of the desirable relationships of a good salary schedule, the structure (the index itself) can be adopted as board of education policy, thus guaranteeing the continuation of these relationships from year to year.

b.) Whenever the starting salary is to be increased, all salary levels are increased proportionally, so that, again, relationships are not changed. The common practice of "across-the-board" raises has caused serious distortions and losses of value that are automatically avoided with the index.

c.) Since increments are, in effect, a percentage of the base salary, the dollar amount of such increments is increased with each revision of beginning salary. The beginning salary, of course controls the entire schedule, since all training levels and increments are ratios of the base salary.

d.) Some of the most difficult struggles of an administrator in trying to improve salary policy can be in the area of improving the maximum salary sufficiently. If a good index can be made board policy, this struggle ends, because maximum salaries will automatically make gains of at least double any increase in starting pay.

Some Words of Caution

1. Do not permit an existing inadequate salary schedule to be translated into index symbols and then to become continuing policy. There is no advantage to this--and every disadvantage.

2. Do not permit an index plan to be developed with inadequate annual steps. An index schedule with increments of 3 percent is just not good, but such schedules do exist. As a rule of thumb, nothing less than a 5 or 6 percent increment should be considered.

3. An index schedule that does not enable a teacher to double his salary at some state of his career is not meeting the needs that the profession sees as desirable for upgrading the quality and status of teaching. When an index schedule is developed, an opportunity is offered to put such improved practice into effect.

4. Inadequate ratio differences between training levels can cause difficulty. Again as a rule of thumb, nothing less than 10 percent (at the base) between training levels is sufficient.

5. An index schedule that terminates each training level with the same number of increments (for example, all levels stop at the twelfth step) is probably inadequate. If the schedule is to encourage advanced training, it should usually have one or more additional steps at the top of each advance training level, thus widening the dollar difference between the maxima of training levels. A possible exception to this rule would be a schedule which has substantially

larger percentages for each step of the higher training level (such as 5 percent increments for a bachelor's degree, 7 percent for a master's degree).

6. A final serious caution--if, for any special local reason, there is a supply of beginning teachers available at a cheap price, this could serve to deter your board from changing base salaries, and thus could stymie the entire program to improve salaries for the staff. In such an instance, one of the important values of the index would be nullified. While it might be equally difficult to improve salaries without an index, the index is not an answer to such a problem.

Keeping these precautions in mind, a local district can make an outstanding and continuing improvement in its personnel policies and in the quality of its staff by adopting a good index salary plan.

Example A

EXAMPLE OF AN INDEX SALARY SCHEDULE

Step Bachelor's		B.A. +15	B.A. +30	Master's	M.A. +15	M.A. +30	M.A. +45	M.A. +60	DR.
Index Schedule									
1	1.00	1.05	1.10	1.15	1.20	1.25	1.30	1.35	1.50
2	1.05	1.10	1.15	1.20	1.25	1.30	1.35	1.40	1.55
3	1.10	1.15	1.20	1.25	1.30	1.35	1.40	1.45	1.60
4	1.20	1.25	1.30	1.35	1.40	1.45	1.50	1.55	1.70
5	1.28	1.31	1.36	1.41	1.46	1.51	1.56	1.61	1.76
6	1.32	1.37	1.42	1.47	1.52	1.57	1.62	1.67	1.82
7	1.38	1.43	1.48	1.53	1.58	1.63	1.68	1.73	1.88
8	1.44	1.49	1.54	1.59	1.64	1.69	1.74	1.79	1.94
9	1.50	1.55	1.60	1.65	1.70	1.75	1.80	1.85	2.00
10	1.55	1.60	1.65	1.70	1.75	1.80	1.85	1.90	2.05
11	1.60	1.65	1.70	1.75	1.80	1.85	1.90	1.95	2.10
12	1.65	1.70	1.75	1.80	1.85	1.90	1.95	2.00	2.15
13	1.70	1.75	1.80	1.85	1.90	1.95	2.00	2.05	2.20
14		1.80	1.85	1.90	1.95	2.00	2.05	2.10	2.25
15			1.90	1.95	2.00	2.05	2.10	2.15	2.30
Dollar amounts; $5,500 as base of 1.00									
1	$5,500	$5,775	$ 6,050	$ 6,325	$ 6,600	$ 6,875	$ 7,150	$ 7,425	$ 8,250
2	5,775	6,050	6,325	6,600	6,875	7,150	7,425	7,700	8,525
3	6,050	6,325	6,600	6,875	7,150	7,425	7,700	7,975	8,800
4	6,600	6,875	7,150	7,425	7,700	7,925	8,250	8,525	9,350
5	6,930	7,205	7,480	7,755	8,030	8,305	8,580	8,588	9,680
6	7,260	7,535	7,810	8,085	8,360	8,635	8,910	9,185	10,010
7	7,590	7,865	8,140	8,415	8,690	8,965	9,240	9,515	10,340
8	7,920	8,192	8,470	8,745	9,020	9,295	9,570	9,845	10,670
9	8,250	8,525	8,800	9,075	9,350	9,625	9,900	10,175	11,000
10	8,525	8,800	9,075	9,350	9,625	9,900	10,175	10,450	11,275
11	8,800	9,075	9,350	9,625	9,900	10,175	10,450	10,725	11,550
12	9,075	9,360	9,625	9,900	10,175	10,450	10,725	11,000	11,825
13	9,350	9,625	9,300	10,175	10,450	10,725	11,000	11,275	12,100
14		9,900	10,175	10,450	10,725	11,000	11,275	11,550	12,375
15			10,450	10,725	11,000	11,275	11,550	11,825	12,650

In almost any gathering of laymen discussing education, the topic of "merit rating" is likely to arise. The N.E.A. reports that about 6 percent of all school districts have some form of merit salary provision, but the schools that make up this 6 percent is changing every year.

One highly publicized merit plan is the West Hartford, Connecticut plan which provides for a merit increase after the 7th year of teaching and another after the 11th year of teaching.

Another widely acceptable merit rating plan is the Grosse Point, Michigan plan which is this: The first two increments are automatic, after the third step, to receive an increment a teacher must demonstrate professional growth activities that can be objectively measured. For instance, he undertook a piece of research and he completed it, or he worked on a curriculum committee. Beyond step 10 the teacher reaches another achievement level where he must plan a professional debelopment project jointly with his supervisors. It may be college study, or it may be individual creative activity.

Another merit plan is the one used at Byram Hills, New York. This plan has two avenues which the teacher may pursue when he has reached the maximum salary. One is where at the beginning of the school year the teacher submits a formal request for classroom evaluation. The evaluation is made by the principal, department head, and superintendent. It consists of 12 to 14 classroom visits during the school year. All are unannounced and follow no specific pattern. Midway through the school year the evaluators meet to discuss the applicant's progress. At the end of the school year they meet with the applicant and tell him what they have seen.

Example B

MERIT SALARY SCHEDULE, WEST HARTFORD, CONNECTICUT

Step	B.A.			M.A.		
	Basic	1st Merit	2nd Merit	Basic	1st Merit	2nd Merit
7	6,600	....	....	6,950	....	....
8	6,950	7,180	....	7,180	7,410	....
9	7,180	7,410	....	7,410	7,640	....
10	7,410	7,640	....	7,640	7,870	....
11	7,640	7,870	....	7,870	8,100	....
12	7,870	8,100	8,330	8,100	8,330	8,560
13	8,100	8,300	8,560	8,330	8,560	8,790
14	....	8,560	8,790	8,560	8,790	9,020
15	....	....	9,020	8,790	9,020	9,250
16	....	....	....	9,020	9,250	9,480
17	....	....	....	....	9,480	9,710
18	....	....	....	....	....	9,940

Example C

SALARY SCHEDULE WITH INCREMENTS BASED ON "ACHIEVEMENT."

Step	B.A.	M.A.	M.A. + 30
1	5,000	5,500	6,000
2	5,300	5,800	6,300
3	5,600	6,100	6,600
4	5,900	6,400	6,900
5	6,200	6,700	7,200
6	6,500	7,000	7,500
7	6,800	7,300	7,800
8	7,100	7,600	8,100
9	7,400	7,900	8,400
10	7,700	8,200	8,700
	—	—	—
11		8,500	9,000
12		8,800	9,300
13			9,600
14			9,900

Example D

A SALARY PLAN USED AT GROSSE POINT, MICHIGAN WITH INCREMENTS BASED ON "ACHIEVEMENT."

Step	B.A.	M.A.	M.A. + 30
1	5000	5500	6000
2	5300	5800	6300
3	5600	6100	6600
4	5900	6400	6900
5	6200	6700	7200
6	6500	7000	7500
7	6800	7300	7800
8	7100	7600	8100
9	7400	7900	8400
10	7700	8200	8700
11		8500	9000
12		8800	9300
13			9600
14			9900

Example E

MERIT SALARY SCHEDULE, WEST HARTFORD, CONNECTICUT

	B.A.			M.A.		
Step	Basic	First Merit	Second Merit	Basic	First Merit	Second Merit
7	6600			6950		
8	6950	7180		7180	7410	
9	7180	7410		7410	7640	
10	7410	7640		7640	7870	
11	7640	7870		7870	8100	
12	7870	8100	8330	8100	8330	8560
13	8100	8330	8560	8330	8560	8790
14		8560	8790	8560	8790	9020
15			9020	8790	9020	9250
16				9020	9250	9480
17					9480	9710
18						9940

The second avenue the teacher may consider is the professional growth program, a plan designed to increase his professional knowledge through graduate courses, travel, writing, curriculum development, or unusual community service.

One of the problems of the administrator is the necessity of explaining his position on merit rating to a seemingly endless number of citizens who are sure it is the answer to better teaching. Arguments for such a plan include these:

1. Pay people what they're worth. What could be simpler?

2. Industry does it. Why can't you?

3. We can't afford these continual big raises for all the teachers.

4. I know Miss X or Mr. Y, and he or she isn't worth what we're paying now. I won't support a raise unless it goes only to those who deserve it.

More persuasive arguments are given by that minority of administrators who feel that they have devised a good "merit" plan. Their argument will be that the plan stimulates professional growth, that it keeps teachers on their toes, and that it helps build respect for good teaching. And each of these administrators will explain the objective rating plan that he has devised.

Arguments on the other side come largely from teachers or administrators who have become convinced that no method has yet been found (1) to guarantee objectivity in rating or (2) to guarantee teaching excellence as a result of such a plan.

Among the principal arguments against merit plans are these:

1. Salary alone is not the best incentive to do a good job as a teacher. If salary were the primary consideration, many teachers would be in some other line of work.

2. Teachers do not wish to be in competition with each other, since teaching is a cooperative endeavor.

3. Many teachers doubt the ability of outside raters to determine the real difference between teachers.

4. Teaching is made up of many skills and many abilities, and no teacher is likely to excel in every one.

5. Some teachers fear that their teaching will be forced into narrow patterns to please their raters--that they will lose some freedom.

6. Many administrators realize that they could not prove to the satisfaction of teachers the differentiations in ratings which they (the administrators) may feel they can make--they can make them, but they can't prove them.

7. Some members of some boards of education may see merit pay as a means of wielding political influence or as a means of reprisals for personal reasons.

AVERAGE BEGINNING SALARIES OF MEN COLLEGE GRADUATES IN SELECTED OCCUPATIONAL FIELDS

Field	June, 1965 Graduates	June, 1966 Graduates
Engineering	$7584	$7944
Accounting	6732	6948
Sales	6276	6588
General Business Trainees	6240	6600
Other Fields	6360	6516
Men Graduates in Teaching	5275	5425

Fringe benefits which are common to most school districts are:

Sick Leave
Severance Pay
Personal Business Leave
Sabbatical Leave
Health Insurance
Life Insurance
Tax-Sheltered Annuity
Summer School Teaching Pay
Retirement Programs

There is no special formula to determine how much these benefits cost the district; it is just a matter of multiplying the districts portion times the number employees, time the number of pay periods.

The principles of paying teachers for extra duties is now generally accepted by most every district and a schedule of the most common activities follows:

Athletics

Basketball - Head Coach
Basketball - Assistants
Cross Country - Head Coach
Cross Country - Assistant
Football - Head Coach
Football - Varsity Assistant
Football - Junior Varsity - Soph. Head Coach
Football - Junior Varsity - Soph. Assistant
Golf - Head Coach
Tennis - Head Coach
Tennis - Assistant
Track - Head Coach
Track - Assistant
Wrestling - Head Coach
Wrestling - Assistant
Baseball - Head Coach
Baseball - Assistant
Athletic Director
Cheerleading Coach
Letterman's Club Advisor
Pep Club Advisor
Intramurals Director
Intramurals Assistants

Activities

Audio-Visual
Annual-Yearbook
Yearbook Business Mgr.
Band (Pep, State, Dance, Marching)
Chorus
Dance Coordinator
Debate-Head Coach
Debate - Assistant
Drama - Head Coach
Forensics - Head Coach
Forensics - Assistants
Junior Class Chairman
Senior Class Chairman
Publicity - School Paper
Student Council
Photo Club
Other Clubs
Timers, Scorers, & Chaperons

Example D

SALARY SCHEDULE

Yr.	BA	BA+15	BA+30	MA or BA+45	MA+15	MA+30
0	(1.00) 5100	(1.03) 5253	(1.06) 5406	(1.09) 5559	(1.12) 5712	(1.15) 5865
1	(1.04) 5304	(1.07) 5457	(1.10) 5610	(1.13) 5733	(1.12) 5712	(1.15) 5865
2	(1.08) 5508	(1.11) 5661	(1.14) 5814	(1.17) 5967	(1.21) 6171	(1.25) 637
3	(1.12) 5712	(1.15) 5865	(1.18) 6018	(1.22) 6222	(1.26) 6426	(1.30) 6630
4	(1.16) 5916	(1.19) 6069	(1.23) 6273	(1.27) 6477	(1.31) 6681	(1.35) 6885
5	(1.20) 6120	(1.24) 6324	(1.28) 6528	(1.32) 6732	(1.36) 6936	(1.40) 7140
6	(1.24) 6324	(1.29) 6579	(1.33) 6783	(1.37) 6987	(1.41) 7191	(1.45) 7395
7	(1.28) 6528	(1.33) 6783	(1.38) 7038	(1.42) 7242	(1.46) 7446	(1.50) 7650
8	(1.31) 6681	(1.37) 6987	(1.42) 7242	(1.47) 7497	(1.51) 7701	(1.55) 7905
9	(1.34) 6834	(1.41) 7191	(1.46) 7446	(1.51) 7701	(1.56) 7956	(1.60) 8160
10	(1.37) 6987	(1.45) 7395	(1.50) 7650	(1.55) 7905	(1.60) 8160	(1.65) 8160
11		(1.49) 7599	(1.54) 7854	(1.59) 8109	(1.64) 8364	(1.69) 8619
12			(1.58) 8058	(1.63) 8318	(1.68) 8568	(1.73) 8823
13				(1.67) 8517	(1.72) 8772	(1.77) 9027
14					(1.76) 8976	(1.81) 9231
15						(1.85) 9435

List of Selected References

Research Bulletin #4, "Guiding Principles and Practices in Office Management" Research Corporation of the ASBO, 1966.

Research Bulletin #5, "Wage and Salary Administration" Research Corporation of the ASBO, 1966.

"N.E.A. Journal", October, 1964.

"N.E.A. Journal", October, 1965.

N.E.A. Journal", November, 1966.

"The American School Board Journal", August, 1966.

"The American School Board Journal" September, 1965.

"School Management", December, 1966.

"School Executives Guide", Prepared by Prentice-Hall, Inc., 1964.

"Index Salary Schedules", Utah Education Association, July, 1965.

"Analysis of Salary Schedule Provisions, 1965-66", Research Division N.E.A.

"Evaluation of Salary Schedules for classroom teachers, 1965-66" Research Division - N.E.A.

"Questions and Answers on Collective Bargaining" Local No. 1166, American Federation of Teachers.

"Business Management of Local School Systems" by Stephen J. Knezevich and John Guy Fowlkes, 1960.

THE SCOPE OF NEGOTIATIONS

by Arvid Anderson, Commissioner
Wisconsin Employment Relations Board

The scope of negotiations between school boards and teachers has been, and will continue to be a problem in the development of negotiations in education. The Wisconsin Statute confers the right to negotiate over wages, hours and conditions of employment. The interpretation of the phrase "wages, hours and conditions of employment" has been a source of dispute in the private sector, and there is every reason to believe that some controversy will exist in the public sector. For example, the United States Supreme Court in the Inland Steel case determined that pensions were a mandatory subject for negotiations. More recently, the United States Supreme Court has concerned itself with whether an employer's going out of business was a required subject of bargaining in the Darlington Mills Case. The matter of crew size was considered to be a required subject of bargaining in the Railroad Telegraphers case.

Thus, while the semantics are different in education, educators prefer the terms "salaries, hours and terms of employment", there are likely to be continuing disputes over the subject matter of bargaining. The scope of negotiations in education is also affected by the fact that both of the major teachers' associations have stated objectives which are considerably broader than the subjects of wages, hours and conditions of employment. The National Education Association states that its goals of negotiation include "all matters which affect the quality of the educational program", while the American Federation of Teachers speaks of its intent to negotiate over "anything that affects the working life of the teacher." While the goal of the A.F.T. is more modest than that of the N.E.A., it is clear that both teachers' organizations have aims which are much broader than the statutory authority to negotiate over wages, hours and conditions of employment. In pointing out this fact, I am not trying to be critical of these professional organizations for holding such goals, but want to make you aware of the fact that teachers' organizations have these broad objectives.

MANDATORY--PERMISSIVE--PROHIBITED

In the private sector the scope of bargaining has been categorized in three major areas: Mandatory, permissive and prohibited. Mandatory areas are those areas in which law requires both the employer and labor organization to negotiate in good faith; for example, salaries, insurance, leave of absence, duty-free lunch hours, bulletin boards and holidays. The permissive area is that in which the employer and the employe organization may agree to negotiate. Such a subject might include a procedure by which the teachers' organization would agree as a condition of its negotiations to submit proposals to the membership for ratification on the school premises. The site of new school, the choice of textbooks and curriculum might fall in this category. An examle of a subject of bargaining prohibited by law would be a closed shop or an agreement to pay less than the minimum wage or an agreement to discriminate because of race or sex. For example the payment of Head of Family salary increment to male teachers only. Also, school boards could not contract for less than the minimum number of school days. The following subject matters have already been included in collective negotiating agreements with teacher organizations: salaries, insurance benefits including insurance benefits for retired teachers, leaves of absence, grievance procedure, bulletin boards, duty-free lunch periods, sabbatical leaves, relief from non-teaching duties such as bus or hall monitoring, employment of non-degree teachers, credits for advanced degrees, collection of monies, classroom size, number of teaching periods, and the school calendar.

A recent decision of the WERB determined that the school calendar is a condition of employment which the exclusive collective negotiating representative, Madison Teachers, Inc., has the right to negotiate, and failing agreement, has the right to petition for fact finding. We reached this conclusion because we believe that the days on which teachers teach have a direct and intimate effect on the salaries, hours and working conditions, and therefore, such matter is a proper subject for bargaining. The school calendar establishes the number of days and dates of active teaching days, the number and dates of teacher meeting days which teachers are required to attend, the number and dates considered holidays, and the number and dates considered convention days. The W.E.R.B. recognized that there are statutory limitations which a school district must meet in fixing the school calendar, but if the negotiations do not interfere with such limitations, the teachers had a right to negotiate over such calendar. The case is now on appeal. But in the meantime the City of Madison and the Madison Teachers Inc. have reached a two-year agreement.

In reaching its conclusion the W.E.R.B. pointed out that many public employers equate the duty to negotiate over wages, hours and conditions of employment with the duty to agree with the employe organization, thus resulting in a delegation of the legislative function fixed in the employer. However, negotiations on matters subject to collective negotiations do not require either party to reach agreement. Negotiations intend that the parties make a mutually genuine effort to arrive at an agreement, but failing such an agreement, the only remedy under the Wisconsin statute is fact finding with recommendations. Employe organizations also need to understand that the right to negotiate over certain conditions of employment does not require the employer to make the concession unless he is persuaded that he wants to do so.

Based on considerable experience in negotiations in the private sector as well as some experience in the public sector, I want to suggest to you that while the legal concepts which I referred to above are important in determining the scope of bargaining, as a practical matter, school boards and teacher organizations can negotiate about anything that they are willing to negotiate about. In making such a broad statement I do not want to ignore certain limitations. I am well aware that professional school administrators regularly consult with their fellow professionals, the classroom teachers, about whether a new curriculum or a new textbook is doing the job for which it is intended; whether the new math is working; whether the music program is proper for the ability and interests of the students; whether the school has the proper industrial arts equipment. But this type of consultation is different from the collective negotiations contemplated by the statute. The fact that collective negotiations exist does not mean that this type of consultation indicates a willingness or desire on the part of the school board or its representatives to negotiate on all subjects affecting the educational program.

SCHOOL BOARD MUST ACT

It should also be recognized that the active administration of schools cannot be stalemated awaiting the outcome of negotiations on every question. For example, if negotiations on the school calendar are going on at the time when the calendar must be adopted for the purpose of hiring teachers and advising the public of when the schools will open and close, the school board must act. The same principle applies to any other subject of negotiation in which a decision must be made in order that the educational function may be carried on.

Efforts to define in detail each subject matter of negotiation in advance before approaching the bargaining table is likely to lead to a considerable amount of arms-length negotiation and very little face-to-face collective negotiating on subject matters in which teachers and school boards are most interested. As I see it, the major concern is over salaries, the qualifications of teachers and the conditions under which teachers teach. Only the future experience of school boards and teachers in collective negotiations and the decisions of the administrative agencies and the courts will give a more precise definition of the scope of bargaining than now exists. Experience in the private sector and observation of new developments in education tell us that efforts to adopt fixed and rigid guide lines for the scope of negotiations will not succeed and will only condemn negotiations to obsolescence because negotiations are a continuing process to meet changing conditions. The most serious challenge to collective bargaining in the private sector is to adapt the process to our rapidly changing technology. The same experience is likely to be true in education. In the meantime, good faith negotiations and discussion will be the key to resolving most of the problem areas of what is negotiable.

MUNICIPAL LABOR LAW AS IT AFFECTS SCHOOL BOARDS AND THEIR PROFESSIONAL EMPLOYES

by Morris Slavney, Chairman
Wisconsin Employment Relations Board

The municipal employer-employe labor relations act, Section 111.70 of the Wisconsin Statutes, the labor relations law in this state covering employes of municipal employers, including professional and non-professional employes of school boards, will in February, 1967, have reached its 5th birthday.

Said statute establishes the right of municipal employes to be represented in conferences and negotiations, in effect collective bargaining, with their municipal employers, or the right to refrain therefrom. In the implementation of such rights, the statute establishes procedures for the determination of the exclusive collective bargaining representative, either through elections conducted by the Wisconsin Employment Relations Board among employes in appropriate collective bargaining units, or the voluntary recognition of such representative.

The statute also establishes the right of the employes to engage in concerted activity for the purposes of collective bargaining, and in the guarantee of such right establishes procedures for remedying activities of both municipal employers and municipal employes, or their organizations, which interfere with those rights.

Election proceedings are initiated with the Board by the filing of either a petition for an election, or a stipulation for an election. The petition is executed by either the employe organization, or the employer. The stipulation is executed by both. If a stipulation is filed, the Board, without hearing, will direct an election among the employes involved and certify the results thereof. A bargaining representative is selected and certified if a majority of the employes voting select the organization as their bargaining representative. The organization must represent, fairly and without discrimination, all employes in the bargaining unit, whether they are members of the organization or not. Assuming a petition for an election is filed with the Board, the Board will conduct a hearing, usually in the community where the municipal employer is located, to determine the facts necessary for the election. Generally, the issues involved are (1) whether the organization involved has as its purpose the representation of employes in collective bargaining with the municipal employer, (2) whether the group of employes sought to be represented constitute an appropriate bargaining unit, and (3) questions with respect to eligibility in the unit, e.g. supervisory, confidential, part time employes, etc. Hearings in election cases are nonadvisory. They take the form of a formal investigation, where, if the parties do not present all relevant data, the Board will question witnesses to bring out the pertinent facts.

COMPLAINT PROCEDURE

Complaint cases are initiated by the filing of a complaint with the Board alleging that either a municipal employer, or municipal employes or their representatives, have committed acts which interfered with the rights of the employes. The party accused of such activity is permitted an opportunity to file a formal answer to such complaint, and after the issues are so joined, the Board holds a formal hearing where the complaining party has the duty to establish the violation. The Board's participation in the proceeding is to conduct the hearing and to issue the appropriate order. It takes no part in the prosecution or defense of the complaint. If there is no violation, the Board will dismiss the complaint. If a violation has been found, the Board will issue an order which, in its opinion, will remedy the violation.

In addition, the Statute provides procedures for the resolution of disputes in collective bargaining through mediation and fact finding procedures. Inasmuch as one of my fellow Board members is today discussing these procedures in another session of this conference, I will not discuss those procedures here.

During the nearly 5 years since the enactment of said law, the Wisconsin Employment Relations Board has processed thereunder a total of 285 election cases, 34 cases involving complaints of alleged prohibited practices, 103 mediation cases, and 116 fact finding cases.

School board employers were involved in 66 election cases. However, the Board has conducted elections among teaching personnel in only 28 cases. The other cases either involved non-professional employes of school boards, or cases which were either dismissed prior to election for one reason or another, or are presently pending before the Board. Of the 28 elections conducted among teachers, locals of the Wisconsin Education Association and the Wisconsin Federation of Teachers were both on the ballot in 11 cases. WEA affiliates were the sole organization on the ballot in 14 cases. Affiliates of the WFT were on the ballot in 3 cases. WEA affiliates were selected by the teachers in 20 cases. Teachers selected WFT affiliates in 6 cases. Teachers rejected the WEA in one case where it was the only organization on the ballot, and in another case, the teachers rejected the WFT affiliate.

In the processing of election cases involving teachers, the Board has rendered a number of decisions interpreting the provisions of Section 111.70. In one of our earlier cases, a question arose as to the nature of the employe organization which could properly represent teachers for the purposes of conferences and negotiations with their school board. The status of a local affiliated with the WEA was questioned by the WFT, contending that the purpose of the WEA was other than that of representing employes in collective bargaining. The Board held otherwise, and determined that affiliates of the WEA could represent teachers in collective bargaining with their school boards.1/

In November, 1964, in a case where the status of a local affiliate of the WEA as an employe organization was challenged on the basis that it had among its membership the school superintendent, other supervisors and principals, the Board held that such an organization was not so employer dominated so as to affect its status as an employe organization. The Board indicated that in determining whether a local affiliate was in fact an employe organization, it would consider such matters as the number of supervisors and the offices they occupy in the employe organization, and the extent to which they formulate its policies and programs.2/ In a case not involving a school district, but relating to the same problem, the Board declared in December, 1964, that the active participation by supervisory employes in the affairs of an employe organization could result in impeding and defeating the primary purpose of the employe organization - that of representing municipal employes in conferences and negotiations with their employer.[3]

Shortly after the effective date of the law, professional employes employed by municipalities, including school boards, as well as their organizations and their employers, were concerned with their possible inclusion in collective bargaining units with nonprofessional employes of their employer. There is no reference in Section 111.70 to professional employes. However, in Section 111.70 (4) (d) of the Act specifies that "craft" employes are permitted to be in units consisting of employes of the same craft only. Within five months of the enactment of the statute, the Board had the opportunity to formally rule on the status of professional employe bargaining units, and in a case involving Winnebago County Hospital[4] the Board declared that professional employes are to be equated with the term "craft employes" and that therefore, professional employes may only be included in a unit consisting of employes practicing the same profession.

In Milwaukee Board of Vocational and Adult Education[5] the Board declared that teachers were professional employes, and were to be equated with the term craft emplyes under the statute. The opportunity arose in this particular case because of the employment of some non-certificated teachers by that School Board.

While the statute does not specifically exclude supervisory personnel from the definition of the term "employe", the Board has determined that supervisors are the agents of the employer, and as such they are not considered as employes within the meaning of the statute, and therefore, they have no rights thereunder, and are not protected in their organizational activities.[6]

In April, 1964, an issue arose in Waunakee Joint School District #1[7] as to the activity of a principal and as to the responsibility of the school board with respect to the principal's actions. The Board declared in that case that the principal was the agent of the school board, and therefore, the school board was responsible for the acts of that principal.

Under the law, the school board recognizes organizations as the representative of teachers in an appropriate collective bargaining unit. The unit encompasses those employes whom the organization may represent in collective bargaining with the school board employer. Not all teachers are necessarily included in the unit, for there may be issues with regard to their supervisory authority, with regard to the time they devote to teaching, etc. The fact that prior to the law a school board considered proposals submitted by both teacher organizations did not persuade the Board to establish units on the basis of membership in said organizations.[8] In the Milwaukee Vocational School Board case, the Board determined that teachers who teach more than ½ of a full teaching schedule as compared with those who teach less than ½ a full teaching schedule were permitted to determine for themselves as to whether they desired to constitute a separate unit.

In the Madison School Board case,[9] the Board rejected a request that it establish separate units in each school of the school district on the basis that while the teachers were employed in separate locations, and under separate immediate supervision, the function at each school was identical, the methods and techniques used in such functions were almost identical, and the curriculum for all schools was planned and supervised by one school board and other high level administrators.

While professional teachers constitute a separate and distinct "craft", this does not necessarily mean that all certificated personnel in the employ of a school board are eligible to vote in an election to determine their bargaining representative. There exists the problem of substitute teachers, principals who are teaching, and other matters which might affect the eligibility of teachers to vote in an election. The Board has declared that part time teachers who are regularly employed have a definite interest in the wages, hours and conditions of their employment, and are therefore eligible to participate in the election.10/ It determined that a home bound teacher who was required to be certified, and who was teaching one-half of the normal teaching schedule, was eligible to participate in the election.11/ In two cases in March, 1964, the Board set forth its general rule as to teachers who would be considered eligible to vote in an election. The Board determined that regular full time certificated teaching personnel and those certificated teachers who are regularly employed on a part time basis, and also those who, although not directly engaged in classroom teaching, work directly with the students or teachers, other than in a supervisory capacity, in support of the educational program, are eligible to vote in an election involving a unit of teachers.12/

Where the school board employed a regular certified teacher as a seasonal employe during the summer as a maintenance employe, an issue arose as to whether the teacher was eligible to vote in the maintenance unit since he had been employed as a seasonal employe for a number of summers. The Board excluded the teacher from the maintenance unit eligibility on the basis that his primary employment with the school district was as a professional employe.13/

The Board has had the opportunity to rule on whether a teacher who has not renewed her teaching contract is eligible to vote in an election to be conducted after April 15, but prior to the close of that school year. The Board determined that teachers who had not accepted their contracts by that date were not eligible to participate in the election since they had no anticipated future employment with that school board, and therefore would be no longer concerned with the salaries and other conditions of employment of that school board. The Board also determined that new teachers who had accepted their contract, but were not yet in the employ of the school board, could vote in the election if they presented themselves at the polls since they definitely had an interest in their future working conditions.14/

The fact that the funds provided to a school board for the payment of teacher's salaries were provided by the federal government did not extinguish the employe-employer relationship between said teacher and his vocational school employer. Teachers involved were under identical supervision of other teachers, and pay was comparable, and all teachers participated in the Wisconsin Teacher Retirement Fund.15/

PROHIBITED PRACTICE CASES

With respect to prohibited practices, that is, activity which the legislature proclaims is illegal as affecting the rights of municipal employes, includes prohibitions against interfering, restraining or coercing employes because of the exercise of their rights under the law. This type of activity may take the form of threats of reprisals or promises of benefits to forego an employe's activity or membership in an employe organization. Such prohibited activity may be expressed otherwise. Both municipal employers, as well as their employes and representatives, are prohibited from such activities. A municipal employer may not discriminate against his employes because of the exercise of their rights. The more common form of discrimination is the discharge or refusal to employ employes because of their concerted activity or membership in employe organizations.

Since the effective date of the Act, the Board has closed 6 complaints involving prohibited practices alleged to have been committed by school board employers. The Board has held that an employe representative is a proper party to file a complaint of prohibited practices against a teacher.[16] In the Waunakee Jt. School District case,[17] the Board found that the principal committed a prohibited practice by soliciting membership applications and dues for the teacher organization. The Board found that no prohibited practice was committed with respect to the non-renewal of the teacher's teaching contract.

In West Allis Jt. School District,[18] the Board found that the mere presence of school principals at a meeting where teachers executed membership applications did not in itself constitute a prohibited practice. In that case, however, the Board did find that the school board unlawfully assisted one teacher organization with respect to permitting said organization to prove its majority to the school board in an informal manner, while denying such opportunity to the other organization.

In the now famous, or infamous, Muskego-Norway School District[19] case, the Board found that the refusal of the school board to renew a teaching contract was motivated by the teacher's activity on behalf of the teacher organization. In the same case, the Board found that supervisory employes of the school board committed prohibited practices by threatening teachers with forfeiture of pay if they failed to attend teacher conventions, or failed to retain their membership in the organization. The Board's decision in the matter was reversed by the Waukesha County Circuit Court on various grounds, including the fact that the Board did not render its decision within the statutory period required, and further, that the school board did not terminate the contract contrary to law, and in addition found that Section 111.70 was subject to the provisions of the school law. Recently the Wisconsin Supreme Court affirmed the Circuit Court decision, however, only on the basis of the time it took the Board to render its decision. The Supreme Court did not decide the substantive issues and the Wisconsin Employment Relations Board has filed a petition for reconsideration with the Supreme Court and that action is still pending by the Court.

In cases involving the Sheboygan Falls School District and the Kenosha Board of Education, the Board found that the school board did not commit prohibited practices. In both cases, among other things, the employe organizations alleged that the school board had refused to renew teacher contracts on the basis of alleged organizational activity. The Board, after hearing, determined that the refusal to renew said contracts were based on other factors, and therefore, the complaints were dismissed.

In a complaint case and a case involving a declaratory ruling issued by the Board with respect to the Board of School Directors of the City of Milwaukee, the Board, in a 2 to 1 decision, determined that the school board had committed a prohibited practice by denying a representative of the minority teacher organization the opportunity to be heard at a public hearing on its budget and that it further interfered with the rights of teachers by denying them the opportunity of being represented in the grievance procedure by an organization other than the majority representative. Incidentally, the majority representative, having agreed to such procedure with the school board, was also found to have committed a prohibited practice with the school board in that matter.[20] In the same case, the Board found that the school board did not violate the law by denying the minority organization the use of teacher mail boxes to distribute literature which was a direct attack on the status of the majority organization, and further, the Board concluded that the school board did not unlawfully aid and assist the majority representative by granting it exclusive check-off of dues.

DUES CHECK-OFF

In the declaratory ruling, which is a procedure where parties are given an opportunity to receive a formal opinion on the interpretation of the law on a hypothetical set of facts, after all parties have been given the opportunity to be heard thereon, the Board concluded that dues deductions voluntarily executed could be granted in favor of the exclusive collective bargaining representative only, that the school board could give exclusive use of bulletin boards and mail boxes to the majority representative when necessary to perform its function as the exclusive representative, and also that it could be given the exclusive use of a list of newly employed teachers when necessary to perform such function, if said list was not otherwise available as a public record.[21] The Board, in that declaratory ruling, further held that the municipal employer could grant to all employe organizations having members in the unit check-off dues, the use of facilities and premises for normal union activities, and data having reference to the identity of the employes.

The Board has issued decisions with respect to the duty and obligation of a municipal employer to bargain collectively with the recognized or certified collective bargaining representative of employes in appropriate collective bargaining units. In such cases, the municipal employer involved has been charged with committing a prohibited practice by refusing to bargain in good faith with the employe representative. In City of New Berlin, decided in March, 1966, the majority of the Board held that the statute did not establish that a refusal to bargain in good faith constituted a prohibited practice which could be remedied by a Board order compelling the municipal employer to bargain in good faith with their representative. The majority held, however, that if the municipal employer neglected to bargain in good faith, the statute had established a procedure which remedied same by providing that such activity on the part of the municipal employer constituted grounds for fact finding under the statute.

SCHOOL CALENDAR

Recently the Madison teachers and the Madison School Board were involved in negotiations and the teachers filed a petition for fact finding with the Board alleging that the school board had refused to bargain on the matter of the school calendar, taking the position that the school calendar should not be a matter of collective bargaining, but was within the managerial prerogative of the school board.[23] While the proceeding was not a prohibited practice case, our decision therein is important enough to relate to you concerning matters which are appropriate under the statute for collective bargaining. The Board determined that since the calendar had a direct and intimate effect upon working conditions, it was a matter for collective bargaining.

In this short period I have attempted to call to your attention the significant cases processed by the Wisconsin Employment Relations Board with respect to school boards and their professional employes.

We shall continue to furnish information upon request to anyone who seeks such information from the Board. A number of your board's have indicated a desire to be on our mailing list. Those who have not so indicated, and if you are interested, do not hesitate to write our agency and request same. Our address is 55-B Hill Farms State Office Building, Madison, Wisconsin, 53702. Within the next month or so, the Board will have ready for distribution, a comprehensive digest of all decisions rendered by the Board since its creation in 1939. All decisions made under Section 111.70, at least to December, 1965, will be included in that digest. Decisions rendered under the Wisconsin Employment Peace Act will be very helpful in interpreting various substantive issues under the municipal employer-employe labor relations law. I urge you to put your order in now for such digest. There is a charge of $2.00 for such digest to take care of the cost of printing and mailing.

If the representatives of any school board present here today desires additional information, or desires a representative of the Board or staff to appear in their local communities, do not hesitate to make your requests known. It is now the public policy of this state to encourage collective bargaining in public employment. It has been my experience that statutes do not make collective bargaining work. Collective bargaining can only be accomplished, for the benefit of the municipal employer, the municipal employe and the public, by people, and not by law alone. Your association is to be commanded on the interest it has shown in those school board matters affected by this new concept, which Wisconsin has pioneered, and in the efforts it has made to assist its membership in the understanding and the implementation of the law. Such activity and the staff personnel carrying out such functions have made the task of administering the law, as it applies to school board members, less difficult, but more enjoyable.

NOTES

1/ Milwaukee Board of Vocational and Adult Education, Dec. No. 6343, 5/63.

2/ West Allis Jt. School District #1, Dec. No. 6544.

3/ City of Milwaukee (Engineers), Dec. No. 6960.

4/ Dec. No. 6043.

5/ Dec. No. 6343, 5/63.

6/ Outagamie County Hospital, Dec. No. 6076, 9/62.

7/ Dec. No. 6706, 4/64.

8/ Milwaukee Board of Vocational and Adult Education, Dec. No. 6343, 5/63.

9/ Dec. No. 6746, 5/64.

10/ Florence County Board of Education, Dec. No. 6143, 11/63.

11/ Superior Joint School District #1, Dec. No. 6719, 4/64.

12/ West Allis Joint School District #1, Dec. No. 6677; Janesville Board of Education, Dec. No. 6678.

13/ Stevens Point Board of Education, Dec. No. 7713, 8/66

14/ Ashland Joint School District #1, Dec. No. 7090-A, 5/65; Appleton Joint School District #10, Dec. No. 7151, 5/65.

15/ Superior Vocational School, Dec. No. 7479, 3/66.

16/ Waunakee Jt. School District #1, Dec. No. 6706, 4/64.

17/ Dec. No. 6706, 4/64.

18/ Dec. No. 6544, 11/63.

19/ Dec. No. 7247, 8/65.

20/ Milwaukee Board of School Directors, Dec. No. 6995-A, 3/66.

21/ Milwaukee Board of School Directors, Dec. No. 6833-A, 3/66.

22/ Dec. No. 7293.

23/ Jt. School District #8, City of Madison, et al., Dec. No. 7768, 10/66.